IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

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UNITED STATES OF AMERICA	*
	*
v.	* **CRIMINAL NO. 1:22-CR-00330-JKB**
	*
AYAZ QURESHI,	*
	*
Defendant	*

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<u>SENTENCING MEMO OF THE DEFENDANT</u>

The Defendant submits this Memorandum in support of his upcoming sentencing on September 4, 2024 at 10:00 AM. Defendant pled guilty to Count Two of the Superseding Indictment in violation of 18 U.S.C. §§ 1343.2. The Defendant respectfully submits that a sentence of probation with no period of executed incarceration is appropriate. Although the Defendant is cognizant of the statutory prohibition for probation, the Defendant submits that a thorough examination of whether probation is a possibility still exists. And after such deliberation, the Defendant submits that such is reasonable. Further, that any fine or money judgment be suspended in light of the financial circumstance of the defendant or monthly payments in an amount consistent with his ability to pay.

BACKGROUND

By way of the plea agreement, the Defendant acknowledges he participated in the PPP Loan process that resulted in his company Yazee, Inc. receiving funds in the amount of

$250,000.00. However, not all of the parts of this complex process were originated by Defendant, himself. Defendant, paramount, was not a co-conspirator, but rather he was a naïve and foolhardy participant.

Although Yazee, Inc. was not operating as described when it applied for the PPP Loan, it should be clear that Yazee, Inc. was in existence prior to Defendant encountering A.S., the person who helped him apply for the PPP Loan. The information propagated within the forms submitted where not prepared by the Defendant. Although he provided documents as requested by A.S., all of the information and the amount of the Loan was determined by A.S. The Defendant foolishly followed along.

For the Defendant, Yazee, Inc. represented the American Dream, where any immigrant can come to the U.S. and start a company and prosper and support a family. But unfortunately, that dream quickly crashed out and landed in a web with A.S.

For the Defendant, Yazee, Inc. was a yet to be realized company that existed mostly in paper form. This is because Defendant is not an entrepreneur, seasoned in the ways of capitalism and its inner workings. When it came to running a business, Defendant is woefully unprepared for the human capital investment, lacks necessary business acumen, and has mental health issues compounding his ability to focus on complex tasks. Yazee, Inc. was a shell going nowhere. Notwithstanding, these shortcomings did not dissuade the Defendant from trying to earn a meager living and being a good husband and father.

Despite the Defendant's major shortcoming in having to plead guilty, the Defendant is and has always been loyal to his spouse and supportive of his family emotionally and financially.

However, the inability to support his family during a difficult time, Covid, impacted him along with everyone else.

When Defendant first contacted A.S., it was not for the purposes of a PPP Loan. Defendant sought the services of A.S. as he was attempting to repair his credit, and secure financing for a home mortgage. From this, discussions with A.S. then evolved into what eventually became the PPP Loan. Defendant accepts that he followed the directions of A.S., and recognizes that he could have easily said no, but still elected to go forward.

The Defendant pled guilty to Wire Fraud because he recognized the nature of what he did. The Defendant made the wrong choice to associate with A.S. The Defendant recognizes that he is not an innocent bystander caught in the wake of criminality, rather he understands the fact that he elected to follow the directions of A.S. He understands that this makes him guilty, despite the best of his intentions.

In total, the losses are not in dispute. The Defendant used the monies obtained through A.S., as he directed, and paid payroll as well as taxes to persons who did not work for him or Yazee, Inc. In total $144,647.21 was paid to persons (along with their payroll taxes) who did not work for Defendant or Yazee, Inc. $75,000.00 of that was taken by A.S., and what remained (about $31k) the Defendant used for himself and his family. In terms of benefitting from a crime, this Defendant still exhibits the same results he had when he first started Yazee, Inc., failure.

ARGUMENT

In it undisputed that sentences must be "sufficient, but not greater than necessary" to comply with specific sentencing purposes, which include that the sentence reflect the severity of the offense, afford adequate deterrence, protect the public from future crimes of the defendant, and provide necessary educational or vocational training, medical care, or other correctional treatment for the defendant in the most effective manner. ***See*** 18 U.S.C. § 3533(a).

Moreover, in Gall v. United States,

> "*We now hold that, while the extent of the difference between a particular sentence and the recommended Guidelines range is surely relevant, courts of appeals must review all sentences—whether inside, just outside, or significantly outside the Guidelines range—under a deferential abuse-of-discretion standard*."

In reviewing the reasonableness of a sentence outside the Guidelines range, appellate courts may therefore take the degree of variance into account and consider the extent of a deviation from the Guidelines. We reject, however, an appellate rule that requires "extraordinary" circumstances to justify a sentence outside the Guidelines range. We also reject the use of a rigid mathematical formula that uses the percentage of a departure as the standard for determining the strength of the justifications required for a specific sentence.

> "*It has been uniform and constant in the federal judicial tradition for the sentencing judge to consider every convicted person as an individual and every case as a unique study in the human failings that sometimes mitigate, sometimes magnify, the crime and the punishment to ensue*." Koon v. United States, 518 U. S. 81, 113 (1996).

The sentencing guidelines instruct that certain characteristics, including "*family ties and responsibilities*," are not ordinarily relevant to determining whether a departure may be warranted. However, post United States v. Booker, 543 U.S. 220, 245 (2005), the federal sentencing guidelines are no longer mandatory.

> "*…the Guidelines are not mandatory, and thus the "range of choice dictated by the facts of the case" is significantly broadened. Moreover, the Guidelines are only one of the factors to consider when imposing sentence, and §3553(a)(3) directs the judge to consider sentences other than imprisonment*." Gall v. United States, 552 U.S. 38 (2007).

Presently, the USSG score of 14 places Defendant in the Guidelines Range of 15 to 21 Months. This is just slightly outside the range of eligible probation. The Government's position is that a sentence below the advisory range is appropriate, namely one year and one day. The Defendant offers the following mitigation to submit that further departure and variance to Probation is warranted. Similarly, pursuant to Gall, the Defendant submits that probation is reasonable, and a non-guideline based sentenced should follow.

MITIGATION

Despite creating the fake payroll, the Defendant, nonetheless, paid $144K in wages and taxes to several persons who had nothing to do with Yazee, Inc. The Defendant's actions were, to a degree, selfless, because he could have kept all of that for himself or spent it on his family. Rather, he blindly followed the directions of A.S., and setup the payroll account and injected that money back into the economy through, albeit, fraudulent wages and taxes. The Defendant could have lavished himself with that money, yet that did not occur. Attached as **Exhibit A**, the Defendant's wife's support letter states, they are a simple family and the Defendant is a simple man. The Defendant is not prone to vice, exhibits good morals and doesn't gamble, smoke or drink. Even after they received the money, they never once lavished themselves with it. Principally, because that is not what the Defendant intended for the money.

For the Defendant this case represents the first criminal infraction in his entire life. This case is an anomaly in the Defendant's life, and he wants nothing more than to return to the normality of his simple life. However, his impending sentencing is not lost on this Defendant. He is fully aware that his conduct warrants a restriction of his liberty, but just how much restriction is the crossroad we now face.

The Defendant's mistake in trusting his judgement is a very hard lesson learned, and one that will never happen again. As stated in the support letters from *Jay Scarola*, *Faisal Siddiqui* and *David Hamilton*, this Defendant is good person, morally, a good father, but far too naïve in how he interacts with the real world. **Exhibit B**. Paramount, the Defendant is the type of person who can appreciate and learn without the necessity of incarceration. The Defendant is far from the Government's depiction of some opportunistic criminal miscreant who seeks out nefarious schemes to defraud. The Defendant, although a U.S. Citizen, does not even have a High School Diploma or equivalent GED. He earns a meager living working mainly as an Uber driver, but has been a pizza delivery man in the past. The Defendant came from a difficult back story, where his brother was murdered and he suffered bullying in his adolescent years. Although he lives in an adopted country, in many regards the Defendant and his family stand alone and isolated from American society, hence why he suffers from depression and anxiety. As stated above, the Defendant made attempts to start businesses in the past, but was unsuccessful. Notwithstanding, the Defendant is still the breadwinner of his family, and he still provides a lifestyle for them. Further, this case represents a powerful lesson for the Defendant, that he can no longer be so naïve and trusting of people who will take advantage of his tendency to say, YES.

In addition, the Defendant does not have extended family or deep community ties to support him. His isolation due to culture and language makes surviving that much harder. But, nonetheless, the Defendant still recognizes the American spirit of pulling yourself up from your bootstraps. The Defendant often works both day and night shifts. The Defendant maintains little social interactions outside of family due largely to his role as breadwinner outside the family and his caretake role for his daughter with autism inside the family. The Defendant further is hampered from social interaction by his own general anxiety and major depressive disorders. Notwithstanding, the Defendant still shoulders the weight of caring for his daughter, who is autistic and has special needs. **Exhibit C** – IEP. The Defendant's role in his relationship to his daughter with autism is special. **Exhibit D** – Dr. Taylor Letter.

The Defendant's daughter has specials needs that are directly fulfilled by the Defendant, on a daily basis. Dr. Taylor, the daughter's physician, provided a support letter memorializing the role he has observed the Defendant has in relation to his daughter's autism. Not only is the Defendant a paramount fixture in her life, but per Dr. Taylor, his presence and active role are crucial to the stability of her symptoms and outbursts. Absent the Defendant's role, his daughter would suffer an extreme and unusual hardship, and will relapse and fall further from where she presently stands. The accomplishments of the daughter to date, stand in jeopardy if the Defendant is removed from her life.

This Defendant is irreplaceable in his role as caregiver to his daughter with autism. The Defendant submits Post-Booker, this Defendant, as the caregiver of the child with autism bears meritorious consideration for further downward departure.

THERAPY

The Defendant suffers from and is being currently treated for General Anxiety Disorder and Major Depressive Disorder. **Exhibit E**. A contributing factor to the Defendants misguided judgement arises from his personal bouts with these maladies. Defendant's recognition of these mental health issues, and adherence to his prescription treatment has helped him regain control. Defendant faces a daily reminder to not collapse under the weight of this crime, and uphold his role to his spouse by being the rock under which they can both raise Mava, their autistic daughter.

Daughter's Autism

The best outcome of Mava's condition (and continued success in school) is having both the Defendant and his wife work successfully as a unit to ensure the best interest of the child are met. The difficulties of caring for a child with Autism and special needs is a burden that falls outside the bounds of ordinary families. The burden on the Defendant and his wife invades every aspect of their lives. Currently, Mava is doing well in school, and that is directly attributable to the support of her father and her mother. However, the Defendant's role as a male-figure, and protector of Mava also makes him irreplaceable. Mava loves her father dearly and provided a difficult to read hand-written letter. **Exhibit F**. Mava's condition requires the Defendant's daily intervention, and any period of incarceration that deprives Mava of this will be catastrophic to the child. This is why in this case, the Defendant can be justly punished and society better served with a sentence of probation. And, this is also why this Defendant deserves both a departure and a variance. Because this Defendant is not the miscreant the Government wants the Court to believe. This Defendant is a simple man. He is a father supporting and raising an autistic daughter. His own failures in life lead him to commit a foolish crime, made it worse by trying to pay it all back through the payroll company. Had the Defendant simply done nothing and just left the money there, he would have returned it. Notably, after giving back $135k to A.S., of which is only cashed $75k, this Defendant held onto the balance of the proceeds for nearly six (6) months. Only after a discussion with A.S. was this Defendant told that he had to create payroll to expend the money. And only then would the loan be forgiven. This Defendant foolishly complied.

Now, regarding the nature and circumstances of the offense, the Defendant disputes the Governments position of Defendant's personal enrichment. The Defendant had a role in working with A.S. in providing him documents to develop the applications and evidence from Yazee, Inc. However, the Defendant is not the master mind behind this. He was also not a co-conspirator. Despite the loss of $250k, and the breach of the public trust, this Defendant only profited $31k from the fraud. Although the Government frames the sham payroll created by Defendant as proactive fraud, we submit its quite the converse. More akin to a poorly cast Robin Hood, who is nowhere as sophisticated, nowhere as intelligent or nowhere as elusive as the fictional character to evade capture.

This Defendant participated in Wire Fraud and obtained $250k during Covid, but then paid out $145K to actual people (in the form of payroll and taxes), $75k to A.S. (the kickback), and left $31k for himself. If anything, after committing the crime, this Defendant went to great lengths to enrich other people rather than himself. For the Defendant, employing the sham payroll was the only perceived way to give the money back. Moreover, although the Government insists A.S. and the Defendant agreed to the $75k fee, the Defendant actually gave A.S. $135k in written checks in the hopes of trying to return more of the initial $250k. However, A.S. only deposited $75k.

Under these circumstances, where the Defendant is not the ring-leader, not the protagonist of the criminal malfeasance, and only personally profited with $31k, it serves the ends of justice not to sentence him harshly with incarceration. The Defendant submits this case presents the type of facts that reasonably support an extended period of probation as the appropriate sentence. Probation is a sufficient deprivation of liberty that impresses upon this Defendant the severity of his conduct, but one that also fairly considers the special needs of his daughter. This Defendant is not a career offender and ranks negligible in terms of recidivism.

As to Defendant's history and characteristics, this Defendant has never had any contact with the criminal justice system. Per the PSIR, the Defendant's "*total criminal history score is zero. According to the sentencing table in USSG Chapter 5, Part A, a criminal history score of zero establishes a criminal history category of I.*"

Although this crime has a high degree of sophistication, for the Defendant to have successfully executed it on his own would not have been possible. Put another way, this white-collar crime committed by a blue-collar guy requires the participation of other white collars to succeed. Hence, why there is A.S.

The Defendant is a simple person. He is poorly educated with limited occupational opportunities, but nonetheless driven to support and care for his family. Despite the Government's projection, this Defendant still lives a humble and private life. The Defendant does not dine out often, does not vacation and despite the PPP Loan money, the Defendant never spent it lavishly on himself. As stated above, the Defendant actually spent $145k the ill-gotten proceeds paying other people, as well as, payroll taxes.

This Defendant has never been to prison. For his first ever crime, he commits wire fraud. The need for the sentence to promote respect for the law can be served by ordering an extended period of probation because the Defendant is not hardened in the sense that incarceration is necessary. Rather, Defendant is soft and unimposing and can suffer punishment much more easily than a genuine, hardened criminal. **Exhibit G** - Family Photos. In light of the circumstances surrounding the Defendant and because this is a non-violent felony, a non-guideline sentence would be appropriate and reasonable here. By ordering the Defendant to educate himself better about business, refrain from vice (which he already does), continue with his therapy and, most of all, continue being the caregiver for his daughter, all of this can be accomplished without incarceration. Noteworthy, in Gall, the District Court departed 100% from the 30-month bottom range of the Guidelines and granted 36 months probation instead of incarceration. This was held to be reasonable.

Forfeiture

The PSIR, the Defendant is financially incapable of disgorging the agreed amount of $250,723.00 USD. However, the Defendant does not dispute there are losses attributable to him. As stated above, of the $250k, $145k was paid to people other than him, and $75k to A.S. That left $31k, which Defendant does not dispute was used to help support his family. The Defendant, prior to this crime, has never had wealth or assets close in value to $250,723.00. Any forfeit would be financially the equivalent of bankruptcy.

Restitution

The Defendant shall live the remaining days of his life indentured to this debt. In some universe, under these circumstances, there will come a day when the Defendant will fulfil the obligation. The Defendant became the mark for A.S., and the entirety of the loss landed squarely in his Wells Fargo account. This cannot be disputed, but the loss is not entirely founded in the Defendant personally enriching himself. In light of the amount of funds that did not personally benefit the Defendant, this Defendant opposes interest to accrue.

Respectfully submitted,

AI & ASSOCIATES

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CERTIFICATE OF SERVICE

I, Jonathan Ai, hereby certify that on August 27, 2024, a copy of Defendant's Sentencing Memorandum was served via the CM/ECF E-Filing system on:

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____
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