

conspiracy to commit wire fraud in violation of 18 U.S.C. § 1349 (Count 1); and wire fraud in violation of 18 U.S.C. § 1343 (Count 9). On June 26, 2024, the Defendant appeared before this Court and entered his plea of guilty to Count 1 pursuant to a written plea agreement entered into with the Government. The highlights of the plea agreement are as follows:

1) The parties agreed that the applicable guidelines' base offense level in the Federal Sentencing Guidelines are covered in U.S.S.S.G. § 2K2.1(a)(4) which provide for Basic Offense Level of 7.

2) The parties agreed that the defendant would be subject to a 4-level enhancement for a loss amount agreed to be more than \$15,000 but less than \$40,000 Pursuant to §2B1.1(b)(1)(C) of the Federal Sentencing Guidelines.

3) The parties agreed that the Defendant had entered his plea in a timely matter and thus that he should be entitled to a 2-level reduction pursuant to § 3E1.1(a) of the Federal Sentencing Guidelines for a timely acceptance of responsibility.

4) The parties further agreed that the Defendant might also qualify for an additional 2-level reduction under the sentencing guidelines as a so-called "zero-point offender pursuant to §4C1.1.

5) While the Government agreed not to seek a sentence above the sentencing guidelines, the Defendant would be free to seek a downward departure or a sentence outside of the recommended guidelines range.

6) The Government agreed to dismiss Count 9 of the indictment at sentencing.

7) The parties acknowledge that the plea agreement was not binding on the

Court and that the Court would make the ultimate determination with respect to the appropriate base offense level and criminal history category and what adjustments, if any, should be applied to that base offense level and criminal history score.

On that date this Court accepted the Defendant's proper plea of guilty and ordered the preparation of a **PSR**. Sentencing has been deferred in this matter and is now presently set for October 24, 2024 @ 1:00 p.m.

II. UNRESOLVED ISSUES WITH RESPECT TO PSR

Both Mr. Fielder and counsel have received and reviewed the **PSR** prepared by the United States Probation Office and there are no objections to the contents of that report.

III. SENTENCE TO BE IMPOSED

Mr. Fielder will stand before this Court at sentencing a soon to be 33-year-old man who, by his own words, made the "dumbest" decision of his life. As noted in the (which by the way included an excellent portrayal of the underlying facts and circumstances involved in this case, **PSR, Pp. 4-9, ¶¶s 4-22**) Mr. Fielder assisted in one fraudulent PPP (Paycheck Protection Program). Simply stated (and again Mr. Thomas of the Probation Offices spells it out much more effectively) he allowed a co-conspirator to dramatically embellish his credit-worthiness to allow him to obtain a loan in the approximate amount of \$21,000 under the program which he would not have otherwise qualified for. Counsel submits that, as a result of this action, he forever changed the status of his life! On the other hand, counsel is hopeful that when the Court considers all of the other facts and circumstances of this young man's life, as he knows that it will, that it will consider that a sentence of probation is warranted.

For starters, a review of the **PSR** with regard to its Offense level Computation, the guidelines themselves, provide for low offense level of 7 (even considering a recommended 4-level increase to the “amount of loss range of \$5,000 to \$40,000 dollars when Mr. Fielder’s recommended loss was to be at the lowest end of that range.) **PSR. P.9-10, ¶¶s 24-32**). Beyond that, Mr. Fielder appears before this Court with absolutely no criminal history points whatsoever. Applying both of these factors, led the Probation Office to state that a sentence other than one for imprisonment, since the guideline range is Zone A, the lowest zone or a sentence of 0-6 months. (**PSR, P. 16, ¶¶s 68-69**). Thus, counsel hopes that the Court even just considering these factors, along with the fact that Mr. Fielder committed a “single act and impose the absolute minimum sentence along with the lowest period of supervised release or probation term.

However, there are other factors with regard to Mr. Fielder which would hopefully make the Court’s sentencing decision in this regard even a much easier one to make. One of the things that counsel tries to do, and which he certainly tried to do in Mr. Fielder’s case, is to try to get to know his client. Counsel must confess that when he first met Mr. Fielder, he found him to be not only fully cooperative with counsel, but a man who at the earliest possible stage of this admitted his wrongdoing and his culpability. He clearly indicated at our first meeting that he just had had financial problems and this looked like a way to make a little money (very little as it turned out when compared to its cost). He did the same thing, Your Honor, when he appeared before you on June 26, 2024 and entered his plea of guilty for this charge.

For anyone considering punishment, and what is enough, the effect of even a federal felony conviction, which will likely last forever, is too often overlooked. Mr.

Fielder, had a serious accident in 2022 after the event leading to the charge in this case and from which he is still feeling the effects. (**PSR, P. 14, ¶53**). That situation has, in the past, caused him problems with regard to successfully seeking and successfully being able to maintain employment, (**PSR, P. 14, ¶ 59**). However, he, fortunately, has recently been able to find a good job as a ramp agent for an airline at the Kansas City, Mo. Airport. He has been able to continue working there although at times in great pain, (**PSR, P. 14, ¶58**). Although he is hopeful that he can keep that job, he runs the risk that this felony conviction may make that prospect questionable. He has people there who like his work, and who will support his efforts to keep that job notwithstanding this conviction. So, in reality, his “punishment” has already started. One also needs to consider the restitution requirement which has been explained to Mr. Fielder both prior to the plea and also in the **PSR** which has also been reviewed with him by counsel. (**PSR, P. 18, ¶ 80**). Although terms will be set, this will still be an ongoing problem for man who has already had financial problems. Certainly, that too, would be a part of his “punishment.”

Finally, counsel wishes to advise the Court (because he knows that it will be concerned) regarding his discussions with his client regarding the issue of his frequent marijuana usage. (**PSR, P.14, ¶55**). Mr. Fielder has been made aware (a “not too difficult task by the way) that just because marijuana usage may now be legalized by the state of Missouri, this does not mean it will be legal with regard to any federal supervision. The first discussion came at the time we reviewed the terms of his pretrial release which were imposed by the Magistrate Court prior to counsel’s being appointed to represent him. Of particular concern to counsel, was the fact that he feared that

since Mr. Fielder was in frequent pain, that he might tend to utilize marijuana as a “medication.” In any event, Mr. Fielder must have listened because we have had no problems with regard to that during the months since he was placed on pretrial release. The point is, that that too, is something that can be added to the list of “problems” that Mr. Fielder realizes that his actions have brought into his life.

CONCLUSION

Based on the foregoing, Defendant, Shaquille Fielder, hereby requests that this Honorable Court impose a sentence in this case consistent with the suggestions contained in this Memorandum and for any other relief as shall be deemed proper by the Court.

Respectfully Submitted,

/s/ F.A. White Jr.
F. A. White, Jr. #22565
7924 N. Cherry St.
Kansas City, Missouri 64118
(816) 454-5300
(816) 455-3443- FAX

ATTORNEY FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that on October 24, 2024, the foregoing was filed in the Court’s electronic filing system and a copy electronically served on all parties.

/s/ F.A. White Jr.
F. A. White, Jr.