

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

UNITED STATES OF AMERICA,

PLAINTIFF,

v.

JORDAN NICHOLS,

DEFENDANT.

CASE No.:

24-00029-11-CR-W-BP

JORDAN NICHOL'S SENTENCING MEMORANDUM

COMES NOW, Jordan Nichols, by and through his attorney of record, John Anthony Picerno, and requests a sentence of probation in the above captioned cause of action. For his sentencing memorandum Mr. Nichols respectfully states as follows:

I. PROCEDURAL HISTORY

On October 29, 2024, Mr. Nichols, entered a plea of guilty to Count 1 of the Indictment, which charged that, beginning no later than on or about February 2021 and continuing until at least July 2022, he conspired to commit wire fraud in violation of 18 U.S.C. § 1349.

II. PSR - TOTAL OFFENSE LEVEL

Pursuant to the plea agreement, the parties agreed to a BOL of 9, a CHC of III, and an advisory sentencing guideline range of 8 - 14 months. Because count 1 is a class C felony, Mr. Nichols is eligible for a probationary sentence of 1-5 years.

III. SENTENCE TO BE IMPOSED

Mr. Nichols respectfully asks this Honorable Court to impose a sentence of probation. He has accepted responsibility for his unlawful conduct in this case. He provided a full and complete factual basis during the guilty plea hearing. The PSR recommended a two-level reduction for acceptance of responsibility based upon his factual basis.

APPLICATION OF 18 U.S.C. §3553(a) FACTORS

- (a) Factors to be considered in imposing a sentence.--The Court shall impose a sentence sufficient, but not greater than necessary, to comply with the purposes set forth in paragraph (2) of this subsection. The court, in determining the particular sentence to be imposed, shall consider
- (1) the nature and circumstances of the offense and the history and characteristics of the defendant;
 - (2) the need for the sentence imposed
 - (A) to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense;
 - (B) to afford adequate deterrence to criminal conduct;
 - (C) to protect the public from further crimes of the defendant; and
 - (D) to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner;
 - (3) the kinds of sentences available;

(4) the kinds of sentence and the sentencing range

established for... (5) any pertinent policy statement...

(6) the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct; and

(7) the need to provide restitution to any victim of the offense.

The U.S. Supreme Court has specifically ruled that, in balancing the §3553(a) factors, a judge may determine that, in the particular case, a within-Guidelines sentence is *greater than necessary* to serve the objectives of sentencing. *Kimbrough*, 128 S. Ct. 558, 564 (2007). *Rita*, 127 S. Ct. 2456, 2465 (2007).

Nature and Circumstances of the Offense

The Offense Conduct section of this memorandum has described Mr. Nichols's illegal conduct. He has pled guilty and acknowledged that he allowed a false application for a PPP loan to be submitted on his behalf. As a result, he received \$20,832.

History and Characteristics of the Defendant

A sentence of probation would satisfy all the goals of sentencing. It is the goal of sentencing to prevent unnecessary incarceration and to limit prison sentences to those individuals who pose the greatest risk to society. As renowned criminologist Norval Morris has consistently argued, and reflective of the recent Supreme Court decisions, when determining punishment, "the

least restrictive (punitive) sentence necessary to achieve defined social purposes should be imposed."¹

With regard to the history and characteristics of Mr. Nichols, he is 31 years of age and was born and raised in the Kansas City metropolitan area. He is currently in a relationship with the mother of his two-year-old child. He has 4 other children and currently pays \$890 per month in child support.

He suffers from depression, anxiety, and trauma in part due to him being shot and his cousin violently killed. He has been diagnosed with major depressive disorder, recurrent, moderate; and generalized anxiety disorder. He has prior arrests and convictions for marijuana and driving under the influence.

He has been attending weekly outpatient substance abuse/mental health treatment at Heartland Center for Behavioral Change since July of 2024 and he is expected to be successfully discharged from treatment soon.

He graduated from high school with a 3.14 gpa and he possesses a forklift operator's license. He is gainfully employed as a forklift operator earning approximately \$800 per week.

18 USC §3553(a)(2): The Need for the Sentence Imposed –

(A) To Reflect the Seriousness of the Offense, to Promote Respect for the Law, and to Provide Just Punishment for the Offense

(B) To Afford Adequate Deterrence to Criminal Conduct

¹ In *The Future of Imprisonment*, Norval Morris (1974, pg. 59).

Both of the concepts set out in (A) and (B) can be achieved without imposition of a custody sentence. A review of the criminological literature reveals that to the extent that criminal sanctions do have a general deterrent effect, the certainty (how certain an offender will be deterred) of punishment has a far greater deterrent effect than the severity of the sanction. 18 U.S.C. §3553(a)(2)(B)'s directive that the sentence imposed afford adequate deterrence to criminal conduct does not require a lengthy term of imprisonment. The fact that Mr. Nichols was investigated, prosecuted, and pled guilty for his actions should be sufficient to deter potential similarly situated offenders.

(C) To Protect the Public from Further Crimes of the Defendant

He has accepted full responsibility for his behavior and, through his plea agreement, has demonstrated his character. A sentence of probation will serve to protect the public from further crimes of Mr. Nichols.

18 U.S.C. §3553(a)(3): The Kinds of Sentences Available

18 U.S.C. §3553(a)(3) requires the Court to consider "the kinds of sentences available" in a given case. Here, the Court has available to it a sentence of probation as a form of punishment other than imprisonment. Indeed, employing a sentence of probation will allow the Court to both punish Mr. Hopson-Stephens sufficiently while, at the same time, allowing him the opportunity to continue rebuilding his life and restoring the trust of his family and friends.

18 U.S.C. §3553(4), (5): The Sentencing Guidelines Provisions

Mr. Nichols conviction in this case which warrants a sentence of probation. His federal conviction will be permanently on his record and alone serves as a general and specific deterrent. In short, there are substantial reasons as to how a sentence of probation satisfies the concerns of 18 U.S.C. §3553.

Mr. Nichols has pled guilty, accepted responsibility, and waived his Constitutional right to a trial. He has been free on pretrial release for a year, other than testing positive for marijuana, he has complied with his supervision requirements and conducted himself appropriately and responsibly. A sentence of probation is consistent with the suggestions herein would serve all of the goals of punishment established by the Sentencing Reform Act.

18 USC §3553(6): The Need to Avoid Unwarranted Sentencing Disparities Among Defendants with Similar Records Who Have Been Found Guilty of Similar Conduct.

A sentence of probation for Mr. Nichols under all the factors set out herein, and his genuine acceptance of responsibility, would not cause a sentencing disparity among similarly situated defendants.

IV. CONCLUSION

A sentence of probation is “consistent with how the courts 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.”²

For the reasons set forth above, the defendant seeks a sentence of probation with whatever special conditions of probation this Court deems necessary and appropriate under the facts and circumstances of this case.

Respectfully submitted,

/s/John Anthony Picerno

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ATTORNEY FOR DEFENDANT

CERTIFICATE OF SERVICE

In accordance with Rule 49(a), (b) and (d), fed. R. Crim. P., and Rule 5(b), Fed. R. Civ. P., it is hereby CERTIFIED that this Entry of Appearance was electronically filed this 13th day of April, 2025, and that a copy was sent to all concerned parties, through the Court's Electronic Case Filing System.

/s/John Anthony Picerno

John Anthony Picerno

² *Gall*, 128 S.Ct. 591, 598 (2007).