UNITED STATES DISTRICT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,)
Plaintiff,)
vs) No. 1:24-CR-10007
ADIANA PIERRE,)
Defendant.)

BEFORE THE HONORABLE MYONG J. JOUN
UNITED STATES DISTRICT JUDGE
SENTENCING HEARING

John Joseph Moakley United States Courthouse
Courtroom No. 20
One Courthouse Way
Boston, Massachusetts 02210

FRIDAY, JUNE 7, 2024
11:00 A.M.

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P R O C E E D I N G S

THE CLERK: All rise.

(The Honorable Court Entered.)

THE CLERK: The Court is now in session. Please be seated. Criminal Action, 24-10007, *United States versus Adiana Pierre*.

Would counsel please identify yourselves for the record.

ATTORNEY HOLCOMB: Good morning, your Honor. David Holcomb for the United States.

THE COURT: Good morning, good to see you again.

ATTORNEY HOLCOMB: You as well.

ATTORNEY DiSTEFANO: Good morning, your Honor. Michael DiStefano on behalf of Ms. Adiana Pierre. I also have with me my colleague, Lianna Lamattian.

THE COURT: All right.

ATTORNEY LAMATTIAN: Good morning, your Honor.

THE COURT: Good morning to all of you.

And, Ms. Pierre, good morning.

THE DEFENDANT: Good morning.

THE COURT: All right, so we're here for sentencing. I received and reviewed the presentence report as revised on May 31st, the government's sentencing memo as well as the defendant's sentencing memo filed on May 31st as well. And I've also reviewed the attachments to your memo including the nine letters in support of Ms. Pierre. I see that there's a motion for an order of forfeiture. There's a motion for a preliminary order of forfeiture. There's no other material, to my knowledge other than that.

ATTORNEY HOLCOMB: Nothing else, your Honor.

THE COURT: All right.

And, Mr. DiStefano, have you reviewed the presentence report with your client?

ATTORNEY DiSTEFANO: I have, your Honor.

THE COURT: All right.

And you've discussed the objection by the government?

ATTORNEY DiSTEFANO: Yes.

THE COURT: All right.

And, Ms. Pierre, you've had a chance to review the presentence report with your attorney?

THE DEFENDANT: Yes, sir.

THE COURT: All right, thank you.

So, let me quickly just address the government's objection for the same reasons that I stated on the record during the sentencing of the co-defendant, Mr. Alexandre. I will adopt the analysis made by probation. So we'll begin with the base offense level of 6. And, again, Mr. Holcomb, I will note the government's objection.

ATTORNEY HOLCOMB: Thank you.

THE COURT: And from the PSR, it looks like -- well, although it's styled as objections by the defendant, it appears to be more of a motion for variance?

ATTORNEY DiSTEFANO: That's right, your Honor.

THE COURT: All right.

So maybe we can discuss that after we get through the guideline sentencing.

ATTORNEY DiSTEFANO: Certainly.

THE COURT: All right.

So then let me turn to the calculations starting with the base offense level of 6. Since the loss was between 3.5 and 9.5 million dollars, 18 levels are added. That brings us to 24. Because Ms. Pierre pled guilty to a conspiracy under Title 18, U.S.C. 1957, I will add one level. That brings us to 25. Ms. Pierre meets the criteria to zero point offender. So that total of 25 is decreased by two to 23, because she clearly demonstrated acceptance of responsibility for the offense. That's decreased by another two levels to 21. And finally, she notified authorities of her intention to enter into a plea of guilty, thereby permitting the government to avoid preparation for trial, permitting the Court to allocate its resources sufficiently, will decrease it by one additional level to 20.

Any disagreement?

ATTORNEY HOLCOMB: No, your Honor.

ATTORNEY DiSTEFANO: No, your Honor. Thank you.

THE COURT: So, based upon a total offense level of 20 and a criminal history score of -- I'm sorry, a criminal history category of 1, as I understand it, the guideline range is 33 months to 41 months. Supervised release, range is one to three years, a fine range of 15,000 to 150,000, and a mandatory special assessment of $100 on each count.

I understand that there's an agreement on the restitution and that amount is the total amount of loss which is $5,479,708. Correct?

ATTORNEY HOLCOMB: Correct, your Honor. I think the plea agreement, just more to be precise, says that that's what the government's going to recommend. I don't know that it's agreed upon, but I don’t think that there's an objection either.

THE COURT: Mr. --

ATTORNEY DiSTEFANO: We are not objecting, your Honor.

THE COURT: Okay.

And the government's order of forfeiture in the form of a money judgment in the amount of $427,605?

ATTORNEY HOLCOMB: That's correct, your Honor. And that is an agreed upon -- right, I should say an admission that those are, that's the amount subject to forfeiture.

THE COURT: All right.

And a preliminary order with regard to the motor vehicle?

ATTORNEY HOLCOMB: Yes.

THE COURT: All right.

So, I will hear from you, Mr. Holcomb, as to the government's recommendation.

ATTORNEY HOLCOMB: Thank you, your Honor.

Government is recommending a sentence of 30 months in prison, three years of supervised release, and the restitution amount just discussed. As I go through the sentencing factors under 3553(a), I'll try to address in particular two things that I think come through from the sentencing memos, including specifically Ms. Pierre's conduct relative to her co-defendants including Mr. Alexandre, who was sentenced last week, as well as Ms. Pierre's personal circumstances which I'll acknowledge upfront presents some weighty considerations.

With respect to the nature and circumstances of her offense, starting there, Ms. Pierre didn't get a large paycheck protection loan herself. Mr. Ford, her co-defendant did fraudulently get her the maximum loan that was available to just a single-person business, but that was only around $21,000. But what Ms. Pierre did after that, was I think can fairly be described as trying to make a business out of getting other people loans that they weren't entitled to.

She and Mr. Ford partnered to recruit other borrowers to apply for loans. Mr. Ford handled the paperwork but Ms. Pierre did initiate those referrals and passed along information to Mr. Ford so that he could prepare those applications, and that resulted in numerous applications that were approved by lenders and millions of dollars in Paycheck Protection Program funds that were meant to shore up small businesses and pay employees, and those funds were instead diverted to borrowers who were not eligible for the amounts that they received as a result of the misrepresentations on the applications.

And in, and they made money doing this. They accepted commissions or kickbacks from the borrowers that they helped. The PSR references just a few, but to point out one, there was -- I believe there was a computer technician that received a loan of, like, $600,000 and both Ms. Pierre and Mr. Ford each received checks of $60,000 of Paycheck Protection Program funds from that borrower for their assistance. And there were others. In some cases, Mr. Ford split commissions with Ms. Pierre. Other times she collected commissions separately. And as your Honor's aware, based on the sentencing of co-defendant Gardy Alexandre, Ms. Pierre also recruited Mr. Alexandre to get a loan from Mr. Ford. He got a $300,000 loan. He paid a kickback and then he also started finding borrowers for Mr. Ford to submit fraudulent applications for. And that led to more kickbacks. And so this was a serious offense. A serious pandemic relief fraud because it involves not just lies on applications for Ms. Pierre, but an overarching plan to do this across many borrowers and to make money by doing that.

Turning to Ms. Pierre's personal history and characteristics, her background makes this offense puzzling. Both Ms. Pierre and Mr. Ford have backgrounds that show a concern for others and community involvement, a lot of community involvement. And Ms. Pierre also has, has an education with some work in criminal justice. And the work she was doing at the time of the pandemic she was selling insurance. So she was working in personal finances. She understood that -- or she must have understood that loans are based on representations, and that it's fraud to lie to a lender.

So she and Mr. Ford in June and July in particular, that was a two-month flurry of referrals and applications and kickbacks. And I'll acknowledge that there may be multiple motives for that, for that conduct, including helping friends take advantage of a program, but what it really points to is a get-rich-quick mentality. Let's make a lot of money off of PPP funds that are there for the taking.

The defendant's memo describes some family circumstances or household circumstances, some of which appear to have occurred after this conduct, but some of which appeared to have already been present during this conduct. And so, you know, crediting that account, it doesn't boil down to greed per se, but certainly this two-month flurry represents a mindset of willingness to take advantage of, of a program that was unfortunately very easy to take advantage of.

And I'll try to address the concern regarding the fact that Ms. Pierre has two children. The government is recommending a prison sentence. It's not an insignificant prison recommendation, and nobody, nobody is happy about recommending prison for a parent, especially a single parent. And so I'll recognize that Ms. Pierre does have children of teenage age or almost teenage age that she would be taken away from. And that consideration in our view, has to be balanced with the significance of the conduct, how extensive it was, how much in fraud losses it caused. And so our recommendation has tried to account for that, but I'll recognize that it's a significant personal consideration.

With respect to avoiding disparities in sentences, looking at her conduct and her culpability relative to the others, I want to be careful not to overstate her role. She was certainly central to this schemes as was Mr. Ford. I think they were central to the scheme in different ways, because they had different functions. I wouldn't really place one far above the other in terms of culpability. Both of their conduct led to many loans and losses from those loans.

THE COURT: So last week at Mr. Alexandre's sentencing, I was under the impression, and I don’t think that's anyone's fault, I think it was just my own mistake in assuming that Ms. Pierre was somehow the mastermind of this scheme. Reviewing the material more carefully, am I correct that certainly she might be more culpable than Mr. Alexandre because of the scope and the amounts involved, but she was similarly, as Mr. Alexandre, she was more sort of the recruiter and receiving kickbacks, she didn't herself submit any false fraudulent applications. If anything, Mr. Ford is more culpable than Ms. Pierre.

ATTORNEY HOLCOMB: I think that's accurate, your Honor. And I wouldn't consider it a mistake. I think it's just -- the way I think about it is that Ms. Pierre is more culpable than Mr. Alexandre, one because she was more of an initiator of this conduct. And I think it is fair to say that she, with Mr. Ford, decided to just start doing this for other people. And that's something that sets her apart from Mr. Alexandre. And then there's also just the difference in degree. She recruited more people which led to higher losses. And so she certainly is more culpable than Mr. Alexandre. Whether she's more culpable than Mr. Ford or whether Mr. Ford is more culpable than her, I think it's difficult to say based on their separate functions. Without Ms. Pierre, Mr. Ford, I think, would not have been submitting the applications for lots of borrowers, because he wasn't going out and finding the borrowers. She was the one who referred the borrowers to him. And so I think that they just had separate roles, but they were both similarly central to this scheme. And so that's at least how I've viewed it.

THE COURT: Okay.

ATTORNEY HOLCOMB: And this is -- just a similar note, your Honor, the government hasn't gotten as far as to consider Ms. Pierre an organizer for purposes of a guidelines enhancement, for being an organizer or recruiter, because it -- in my view that would overstate kind of the level of organization to this and suggest that she did a lot more beyond identifying people who wanted loans and connecting them with Mr. Ford. And of course taking the payments in return.

So that's why the government's recommendation relative to the recommendation we made for Mr. Alexandre is slightly higher. It's to account for the fact that she was more slightly to the scheme. It's only slightly higher. There was criminal history in Mr. Alexandre's case. There is no criminal history in Ms. Pierre's case. So the recommendation comes out somewhat close to each other but her, I do think that she is culpable in a way that merits a higher sentence.

And lastly, your Honor, with respect to the other sentencing goals, this was conduct that degraded respect for the pandemic relief programs specifically. The Paycheck Protection Program was a generous federal program enacted at a time of national emergency, and I think it's fair to say that there's now a lot of public cynicism towards pandemic relief programs, because lots of people have heard stories about other people getting loans that they weren't entitled to. Other people getting loans and spending the money on themselves. I think that this type of conduct caused a lot of distrust in this type of program. And Ms. Pierre's conduct unfortunately led to many instances of that happening with different borrowers. So her sentence should promote respect for the law and ensure the public that there are consequences for taking advantage of aid like this.

And with respect to deterrence, your Honor, I can't say that Ms. Pierre presents a risk of re-offending. I do think she appears very industrious. I think one flip side of that is she appears somewhat susceptible to a sort of not get rich quick, but make money quick mentality. But I, I credit that this will be a lesson. So I think general deterrence is more important here and that a 30-month sentence would send the message to others that there are consequences to this type of fraud. So, your Honor, the 30-month sentence is where we came down in terms of what's sufficient, but no more than necessary to address those various sentencing goals.

THE COURT: Thank you, Mr. Holcomb.

ATTORNEY DiSTEFANO: May it please the Court.

Before I address Mr. Holcomb's comments, I'd like to thank him for his professionalism. It's been 18 months since the case originated, if you will, and in my interactions and conversations with him, he's been very candid. I think he's been fair minded. I think he has seen the case for what it is and what it isn't, and I think that all of that has contributed to reaching a resolution pre-indictment. All that said, we disagree on the -- what is before the Court today, which is the appropriate sentence.

With respect to Mr. Holcomb's recommendation of 30 months, your Honor, I take a step back and look at that in the view of the sentencing guidelines. The 30-month recommendation was made with the plea agreement, and in that plea agreement the guidelines are contemplated at 37 to 46 months. So it's in that way, it's seven-month reduction off the low end of the guideline. We now have a guideline sentence of 33 to 41 months. And so I think, and I had conversations with him, and I respect that he didn't grant my request, but I requested that there be a lower recommendation based on the guideline and the way that the court was going to come out. And nonetheless as the Court had mentioned, I'm arguing for a variance based on the guidelines being at what the Court calculated them today.

Mr. Holcomb gave three reasons for a below guideline sentence, that there's a pre-indictment acceptance of responsibility, Ms. Pierre's background. He also explained that she, in his memo had explained she had relatively small profit in relationship to the overall loss amount of the loans. I agree with all three. I think there's a lot more reasons for a reduction which I am now going to address.

Your Honor, when we look at her intent at the time of the fraud in the spring/summer of 2020, which we would all acknowledge was a very chaotic and unprecedented time in our lifetimes of panic. The government initiated a program for relief funds to keep businesses going and for appropriate candidates to apply for those loans. Ms. Pierre at that time was considered a resource within her community, within her local community, within the friends who she had, and she received inquiries from friends. She was a consultant at the time about the PPP loans. This realtime communications which I think reflect, albeit a misunderstanding, but reflect a desire to an extent here to help people. And I want to just briefly describe some of those. So there was a borrower from New York who had aspirations to get her daycare center up and running and functioning at a better level than what it was at. So she sent text communications to Ms. Pierre while this is fresh, while the pandemic loans are being made available. "I have the strategies for both businesses, I just need the funding and to build my team." She also had a -- she wanted to do an adult home. She wanted to set that up as well. Ms. Pierre had texted her back, "I have someone who you will love. I got you, girl." And so she's showing -- there's an excitement here of "I need money, I want to get businesses going, I have some ideas, I haven't had money to get the businesses going in the past." The correspondence continues, and this is the borrower, "I can do so much with this business. I can purchase a property, have residents live there, get paid by the state. I can do home visits, delivery of meals, provide transportation." Et cetera. There's a level, again, of excitement of "I'm an entrepreneur, I want to do things. Can you help me get the funds to do it?" Then there's a question about restrictions. The borrower asks, "I have another question, can I use it towards classes, a degree in my field related to my business?" And Ms. Pierre says, "No, you can't." So she's showing her or telling her there are restrictions that need to be abided by. There's also a question from the borrower, "Can I use it towards any other capital expenses such as marketing materials, supplies for my daycare?" Ms. Pierre replies back, "Marketing is not in the terms. It can't be used for that."

The borrower tries to connect another borrower with Ms. Pierre. This person was a realtor. And the borrower -- this is in July of 2020, asks "Have you been in touch with this other person?" And Ms. Pierre says, "Yes, good morning, I did but unfortunately he won't be qualified because he's a realtor and the loan won't cover his business." And the borrower asks, "Okay, really, because he's a realtor?" And she says, "Yes, investors can't qualify for the PPP loan. You can look it up, and real estate investors aren't qualified."

So in realtime, these messages reflect a few things:

No. 1, she is in fact a resource. People are looking to her to get money to build a business.

No. 2, she is connecting those people with Mr. Ford to get loans.

No. 3, she's showing restrictions are in place. It's not a, "this is the wild west, just get me whatever you want, get me whoever you want, we'll put a loan in and we'll fudge the numbers and get money." She is in fact rejecting a borrower in the realtor that was told you can't do that.

And there's further correspondence between them, and Ms. Pierre gives a breakdown, "to be forgiven, you need to be using 60 percent of the loan for payroll, 20 for mortgage, 20 for loan and utilities. So she's showing that she has a level of understanding that this is a loan program with restrictions. Our problem is it was a loan program to keep businesses which were already in existence functioning and continuing to function. It wasn't a loan program to build a business from scratch, so to speak, or to build a business and take it from a next level. And we know that and we understand that. But what I'm trying to articulate to the Court is, my client did not look at this as a get-rich-quick scheme. My client is a resourceful industrial -- industrious person who is trying to help people, and she did in fact get loans for people, albeit she should have been more diligent in the way she went about it. The sort of bit of irony, your Honor, is the larger picture with the COVID relief funds is the get rich quick scheme, it happened for companies like Kabbage. These financial technology companies that were paid to process the loans and their realtime communications and they've been sued by the government for a claim in hundreds of millions of dollars. Their realtime communications show greed, they showed no restrictions. And this is well documented in various pleadings. There's messages from people at the Kabbage Corporation which is now defunct. "Everyone will try and get this ASAP. Dear God, we can make as much as we want. It's literally ours to lose."

Kabbage Company, they made hundreds of millions of dollars, paid them out to their investors, shut down the company, declared bankruptcy, and there is, as Mr. Holcomb noted in his argument, this was very easy to take advantage of, because the commission that were being made by the financial companies who were supposed to be the gatekeepers for us, U.S. citizens, they were doing anything but being the gatekeepers. They were processing loans here and there. I'll be the first to say it doesn't constitute a defense. You can't submit a false loan and just because the gatekeeper turns the other way, it's still a crime. And I acknowledge that. But it's irony that I wouldn't feel, I'd feel remiss if I didn't bring to the Court's attention that I don't have a client who, unlike others, saw it from the beginning, took full advantage of it, and to no fault of anyone seemed to be reaping that.

When I look to Ms. Pierre's personal history, your Honor, and I've mentioned this in my sentencing memorandum, and I'll go in more detail here, she's a woman who has a lot of admirable qualities. She has two young children, 11 and 13. From the very beginning, she's raised them on her own. She provides for them. She is a shoulder to lean on. She drives them to practices, takes them to school. She, in their letters, is a wonderful mother. And that personal attribute I think warrants a departure from certainly the guidelines. I think it warrants a sentencing recommendation that we're making here today. More to that, your Honor, at this time that the offense had been -- that she was committing the offense, she was engaged to her -- what she had hoped to be her second husband with a long marriage to go. Unfortunately, and this is laid out in Ms. Sousa's presentence report, he was abusive towards the children and it was a terribly disappointing and short -lived marriage. It's relevant because the pressure she had for eleven, ten years as a single mother figuring out how do I get the kids what they needed, was exacerbated by her fiancee at the time who was putting all the pressure on her during the pandemic, you have to provide all the money we need for this house. These are your kids, this is your family. He said things to the kids he never should have said. And I'll leave it at that. Point being, it's a mitigating fact with respect to when she was doing this, and it goes back to similarly those messages, what was her intent? What was her mindset at the time of the offense? And it was one of she was under significant pressure. And I think that that's relevant in the Court's determination of what is the totality of the person before you? Who is my client? Is she someone who was looking and saw a scheme or was she someone who made a poor decision while under tremendous pressure? And that's really who she is.

I will address proportionality. And Mr. Holcomb and I know the Court had noted, and I was here for Mr. Alexandre's sentencing, and I appreciate the Court clarifying today what I believe the Court's view to be with respect to Ms. Pierre. Mr. Alexandre, we acknowledge came in -- he was a tax preparer. Ms. Pierre was trying to learn taxation. She's an industrious person in tax law, excuse me, and in how to do that. In any event, they connected. And we acknowledge he got less borrowers and ultimately was paid less. So we acknowledge that. However, I do think the fact that she has no criminal history level and he does have a criminal history background, brings us closer to him and closes the gap. With respect to Mr. Wallace, I think he's clearly more culpable and I think there's several reasons why:

No. 1, he obtained $170,000 in PPP loans before my client ever called him or ever had a conversation with him about doing PPP loans. Those were fraudulent loans. He applied for them, he obtained them.

No. 2, he was paid out roughly was $120,000 more in commissions than Ms. Pierre got from the borrowers. So he, on a loss level, his loss amount is higher than Ms. Pierre's.

No. 3, he controlled the process. These applications, and I understand if Ms. Pierre doesn't bring the borrowers, there is no applications to be filled out. He's the one fudging the numbers. He's the one saying, you know, we're going to put in for this one. I'm going to make this calculus work out so that this loan comes out to this. It's solely in his determination.

No. 3, noteworthy -- or No. 4, excuse me, the government in its sentencing -- excuse me, in the plea agreement with Mr. Ford, has agreed to recommend the low end of the guidelines. We got a recommendation below the guidelines. I think -- and I understand there are various factors that go into the government's recommendation. I wasn't at all a party to his negotiation with the government, that is with Mr. Ford, but I think it's noteworthy for the Court's consideration. That we earned, or in my view we earned a low below guidelines recommendation, he did not. And for all of those reasons, he's more culpable. And with respect to proportionality with PPP fraud cases in the district, Mr. Holcomb was a prosecutor, prosecuted the case U.S. V McIntyre, and that was a fraudulent

PPP loan of approximately $680,000. That's $680,000 is going to Mr. McIntyre's pocket, it was a fraudulent loan, and he used it but nothing other than for silly purposes. The point being, that's over $250,000 more than ultimately what ended up being or given to Ms. Pierre, and he ended up with a 24-month sentence, which I think is, to look at that as a data point, is very relevant, because we're looking at a smaller loss amount, and Mr. Holcomb in his memorandum noted that part of the reason for his recommendation is her relatively small profit compared to the loss amount that the government ultimately issued in loans. So I think that ties back to where I began, your Honor, which is she wasn't looking at it as how much money do I get into my pockets. There are a lot of borrowers here who are getting loans and she may not get any commissions off of some of the borrowers, because how that was done is a separate matter. But in any event, I think that that's a relevant data point for the Court.

Lastly, Judge, when we look at sort of, you know moving forward and who is Ms. Pierre and what does her future hold? I think it's -- her future holds bright things. And I believe in earnest, as does Mr. Holcomb, that she has no risk of re-offending. This was unique crime -- excuse me, this was an offense done in a unique and unprecedented time in all of our lifetimes, and it wasn't done with any sophistication. It wasn't done with any prior planning. It was done in a very unique and pressure-filled time for all of us, and Ms. Pierre included even more so, I would submit. So she's not somebody who is ever going to re-offend. She's never again going to be a criminal defendant in any other courtroom in the United States. But you don't just have my word from that, your Honor. And I submitted a letter from her mental health counselor, with which I think very aptly and if the Court would indulge me I would like to just read portions of it that describe who Ms. Pierre is and how this came to be in large part.

"Adiana's involvement in financial misconduct stems from a complex interplay of factors including economic insecurity, exacerbated by pressure from her husband to be the dominant earner in their household during the COVID-19 pandemic. However, what sets Adiana apart is her acknowledgement of personal responsibility and her pro-active steps towards rehabilitation. Adiana's journey has not been without its challenges. She has faced many of the consequences of her actions with courage and honesty. She has shown genuine remorse for her involvement in the financial misconduct which she has been convicted. In our counseling sessions Adiana has consistently expressed her regret for her past behavior and has demonstrated a deep commitment to changing the mindset that led her astray. One of the key factors in her transformation has been a renewed faith and the support she found within her faith community. Through her faith in God, Adiana has rediscovered a source of strength and resilience that has helped her navigate feelings of insecurity and uncertainty. She realized that she was allowing the fear of going without and the fear of failure to cloud her vision. Adiana understands that she was living by fear and not by faith. She has embraced a new perspective on the future recognizing that true security comes from living with integrity and making choices that align with her values."

As I read that, your Honor, I think it encapsulates three attributes that provide assurances to the Court that you have a woman before you who will not be back in a courtroom and will do good things.

One, is that it shows she's remorseful.

Two, it shows she's rehabilitated.

And three, it shows that she's recommitted to her faith and her family and doing the right things.

So for all of those reasons, your Honor, we come at a 16-month recommendation. We respectfully and humbly request that the Court impose 16 months. That would be 16 months that will be difficult to say the least on Ms. Pierre and her loved ones, but she understands the price to be paid and she understands that she broke the law and there's consequences to that. When weighing all the factors, we respectfully submit that that's a sufficient sentence but not more than necessary to achieve the goals of sentencing. With respect to certain recommendations, we would request a facility in Florida, given that's where her family predominantly -- extended family resides. We'd also request a date be issued for her to be able to report to a facility at an appropriate time.

With the Court's permission, I would ask that Ms. Pierre be given an opportunity to speak.

THE COURT: Yes.

Take your time.

THE DEFENDANT: If I may find faith. Your Honor, thank you. And, Mr. Holcomb, thank you. And, Michael, thank you so much.

I am blessed to live in a great nation and I never wanted to do anything against my government 'cause I honor where I live and your Honor, and everybody that helped me through this process. As I stated to my children, if you do something wrong, you take full accountability. And I want to take full accountability for what I have done to the U.S. government. I know this is a lesson learned. I would not put myself in this situation ever again. I just wanted to be a resource, a reliable resource for my community. And in the predominantly Haitian community if given an opportunity and educated properly how to help those who need the resources, I would love to be that piece, because going through this 18-month process, I realize that if I was fully educated properly in how to do whatever it is with this -- these loans, I wouldn't have hurt anybody else in the process, including myself, your Honor. And so I ask for your favor and mercy with the U.S. government and that is all I have to say.

Thank you, sir.

THE COURT: Thank you, Ms. Pierre.

I'm going to take a short recess.

THE CLERK: All rise.

(The Honorable Court Exited.)

(The Honorable Court Stood in Recess.)

THE CLERK: All rise.

(The Honorable Court Entered.)

THE CLERK: Please be seated.

THE COURT: All right, thank you, everyone for your patience. I want to thank both attorneys for your thoughtful arguments and I appreciate your advocacy. I, I want to acknowledge and thank Mr. Holcomb. It's a difficult job to properly represent the government while also acknowledging the, sort of the human cost or -- when it comes to sentencing. And you did it in a sensitive way that I appreciated. I just wanted to let you know.

So, Ms. Pierre, you don't have to stand. I also want to acknowledge that it was probably not easy acknowledging and admitting to the wrong -- I guess I'm at a bit of a loss of words, because sentencing is so difficult for me, I think generally, but there are a number of factors that make it particularly more difficult here. I think -- as I said earlier, I think -- I didn't fully comprehend where in the scheme and where amongst the co-defendants you really fell in terms of proportionality and culpability. I think I have a better idea now. I also agree with the attorneys that this is not the sort of case where we are concerned about a defendant re-offending for all of the reasons your attorney stated earlier. I agree, that I would be very, very surprised if you end up in court again like this as a defendant. I also recognize the immense difficulty of raising young children on your own as a single parent. There are built-in stressors and pressures and even as -- as part of a two-person team with full-time jobs, it can be very difficult. But I also know from personal experience what it's like to be a single parent raising young kids, right? So I recognize that.

But given what the crimes are that you've admitted to, there is also the recognition that some prison time is necessary. And I'm -- this is where I'm having a real difficult part, which is knowing that you have an 11-year-old and a 13-year-old and you can't just say that my partner is going to be there for them, and the impact that it's going to have on your kids. It's one thing to punish the defendant unintentionally, but necessarily the people who are close to you, in this case your children, are the ones who are going to get punished. So I really have to balance those things. And we can debate, you know, whether it should be 16 months, 17 months, 18 months, 19 months, all the way to 30 months. And in some way it seems arbitrary that I pick a number.

I'm going to impose a sentence of 17 months incarceration followed by three years of supervised release and restitution in the amount of $5,479,708. I am not going to impose a fine given your financial status, but I have to impose a mandatory special assessment in the amount of $100 each on the two counts that you pleaded guilty to for a total of $200.

I believe this is an appropriate and reasonable sentence, but not greater than necessary to effectuate all the goals of sentencing.

So, Mr. DiStefano, before I formally impose the sentence, did you want to be further heard?

ATTORNEY DiSTEFANO: The only request I had, your Honor, with respect to a self-report date which I understand is not objected to, as well as a facility in Florida, we would just, for the record, object that -- well, no, that's all I want to be heard on your Honor.

THE COURT: Mr. Holcomb?

ATTORNEY HOLCOMB: There's no objection to self-reporting, your Honor.

THE COURT: All right, thank you.

Ms. Pierre, if you would stand, please.

THE DEFENDANT: Yes, sir.

THE COURT: So pursuant to the Sentencing Reform Act of 1984 and having considered the sentencing factors enumerated at Title 18, United States Code Section 3553(a), it is the judgment of the Court that the defendant, Adiana Pierre, is hereby committed to the custody of the Bureau of Prisons, to be imprisoned for a term of 17 months as to each count to be served concurrently.

Upon release from imprisonment, the defendant shall be placed on supervised release for a term of three years as to each count to run concurrently.

Within 72 hours of release of the custody of the Bureau of Prisons, Ms. Pierre, you shall report in person to the district to which you are released.

It is further ordered that the defendant shall make restitution in the amount of $5,479,708. 2,013,793 of those dollars to the U.S. Small Business Administration. $27,029 to Lender Street. $3,238,896 to Cross River Bank.

Given the amount of this restitution that I'm ordering and your financial status, Ms. Pierre, I will waive the interest. Any payment made that is not payment in full, shall be divided proportionately amongst the parties named.

The judgment that I will enter either later today or tomorrow -- I guess it can't be tomorrow, I will try to get it done today, will delineate all of the specific amounts, what amounts are jointly and severally liable to the Cross River Bank, the Small Business Administration, and to Lender Street.

Payment of the restitution will begin immediately and shall be made according to the requirements of the Federal Bureau of Prisons, Inmate Financial Responsibility Program while the defendant is incarcerated. And according to the Court order repayment schedule to the term of supervised release.

All restitution payments shall be made to the Clerk U.S. District Court for transfer to the identified victims.

Ms. Pierre, you will notify the U.S. attorney for this district within 30 days of any change of mailing or residence address that occurs while any portion of the restitution remains unpaid.

As I mentioned, I'm not imposing a fine based on the information before me. I find that you do not have the financial ability to pay a fine in addition to the restitution.

The Court will grant the United States' motion for entry of an order of forfeiture in the form of a personal money judgment, and order the defendant to forfeit the sum of $427,605.

The Court also grants the United States' motion for a preliminary order of forfeiture. The Court finds that the United States has established a requisite nexus between this property, the motor vehicle, and the offenses of which the defendant has been convicted.

I further order that you pay the mandatory special assessment of $100 on each count for a total of $200, which shall be due immediately.

So while you are on supervised release, Ms. Pierre, there are some mandatory and standard and special conditions that you need to abide by. I'm not going to repeat all of those here, but you will be -- it will be reflected in writing in the judgment that I will enter.

You may be seated.

As your attorney had requested in the judgment, I will also include my recommendation that the Bureau of Prison designate you to a facility somewhere in the Florida area. You may already know this from your attorney, but my recommendation is just that, a recommendation. The Bureau of Prisons will make the final decision, but I will certainly make it known to them that I hope that they will place you in a facility in Florida.

And it is further ordered that the defendant self-surrender at the institution designated by the Bureau of Prisons.

Now, did you want a date?

ATTORNEY DiSTEFANO: Could I have one moment, your Honor?

THE COURT: Sure.

ATTORNEY DiSTEFANO: I don’t know if I should speak with Ms. Sousa on a date.

PROBATION: Typically it's six weeks and she'll get a notification in the mail of what facility. I don't know, six weeks from today is?

THE CLERK: July 19th.

PROBATION: July 19th.

ATTORNEY DiSTEFANO: Is there any way we could have the first week of August, your Honor, just with personal --

PROBATION: There's no objection from probation, your Honor.

ATTORNEY HOLCOMB: No objection.

ATTORNEY DiSTEFANO: Thank you.

THE COURT: The last thing, Ms. Pierre, if you recall months ago when I took your plea, there was a provision in the plea agreement whereby you had agreed to waive certain appellate rights. To the extent that any appellate rights survive that appeal waiver, I want to notify you and to advise you that you also have a right to appeal this sentence, particularly if you think that the sentence was contrary to law. If you're unable to pay the costs of appeal, you may ask permission to have those costs waived and appeal without paying. You must file a notice of appeal within 14 days of entry of the judgment, and if you request it, the Clerk will immediately prepare and file a notice of appeal on your behalf. Okay?

Is there anything further?

ATTORNEY HOLCOMB: No, thank you, your Honor.

ATTORNEY DiSTEFANO: No, your Honor. Thank you.

THE COURT: All right.

Ms. Pierre, I wish you and your family all the best. I hope that you can put this behind you and that you would be able to focus on your kids.

All right, good luck.

THE CLERK: All rise.

(The Honorable Court Exited.)

(Whereupon, at 12:04 p.m., the Court Stood in Recess.)

C E R T I F I C A T E

UNITED STATES DISTRICT COURT)
DISTRICT OF MASSACHUSETTS)

I, Catherine L. Zelinski, certify that the foregoing is a true and accurate transcription of my stenographic notes from the record of proceedings taken Friday, June 7, 2024, in the above-entitled matter to the best of my skill and ability.

/s/ Catherine L. Zelinski

Catherine L. Zelinski, RPR, CRC
Official Court Reporter

8/13/2024
Date