

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. 21-CR-239-GKF
	)	
ALETA NECOLE THOMAS,	)	
	)	
Defendant.	)	

**MOTION FOR SENTENCING VARIANCE OF
DEFENDANT, ALETA NECOLE THOMAS**

The defendant, Aleta Necole Thomas (“Ms. Thomas”), hereby submits her motion for a sentencing variance from the United States Sentencing Guidelines (“the Guidelines”).

THE PRESENTENCE REPORT

Ms. Thomas has received a copy of the Presentence Report and has filed her objections to it separately.

INTRODUCTION

It is probable that this Court has never sentenced a person who has “paid it forward” before the commission of their offense more so than Ms. Thomas. As the Court will understand from reviewing this motion, many aspects of Ms. Thomas’s in life represent the very highest and best traits in humanity. She has demonstrated over her life that she is a compassionate, self-sacrificing woman who has dedicated her life to helping less fortunate persons including, but not limited to, homeless, helpless, drug-addicted babies born to mothers who themselves were drug addicts. Ms. Thomas has not only

helped those children, she has adopted them and has taken them as her own to care for, to nurture and to raise. As this motion will demonstrate, Ms. Thomas has given meaning to lives that were otherwise destined to fail.

SUMMARY OF MS. THOMAS'S LIFE

As a preliminary matter, an expurgated summary of Ms. Thomas's life is set forth in paragraph Nos. 38-44 of the PSR. That short summary is extremely remarkable but, when combined with the letters of support Ms. Thomas's friends and relatives have provided, the picture that is painted of Ms. Thomas's life is extremely inspiring and noteworthy. It is highly recommended that the Court slowly, deliberately and thoughtfully read each letter that has been submitted on Ms. Thomas's behalf to truly understand the level of kindness and humanity that exists in Ms. Thomas.

A. Early childhood trauma.

As reflected in the PSR, Ms. Thomas had every reason to fail in life. Her father was a gang member who was murdered. Her mother died in a car crash a few months later while Ms. Thomas was a teenager at which time she was left to fend for herself. Fortunately, her grandparents opened their home to Ms. Thomas and raised her. She could have picked the path in life that led to lawlessness and lack of direction. But, she didn't. Ms. Thomas associated herself with a church and became directed in her life's mission by her Christian principles.

B. Ms. Thomas's devotion to her church.

Many of the persons who wrote on Ms. Thomas's behalf have mentioned her tireless efforts in being a leader in her church. Ms. Thomas's Senior Pastor Wilmore Green writes "Ms. Thomas is an active and influential member of our church. She serves on our church board, she is the leader of one of our youth groups, and she often leads the praise and worship portion of our services." *Exhibit A-6*. Pastor Carl B. Ming writes, "Ms. Thomas has served the Southwest Region Conference of Seventh-Day Adventists in a number of areas relating to youth and young adults including children ministries, youth ministries, pathfinders ministries and federation president. During this time, she exhibited profound qualities and gifts to mold young minds." *Exhibit A-7*.

Melvin Overstreet, USAF Ret. and Hearther E. Oversteet, USAF Retired, have also spoken about Ms. Thomas's dedication to her church and mission works. They write:

"I met Aleta Thomas in 1997/98 at a Bethel SDA Church choir concert, it involved several choirs, singing groups, you and old from Oklahoma. She was one of the youth/choir directors, and Aleta stood out because she talked to all of the children/teens/young adults. . . . Roughly two years later (2000's) the Southwest Region Conference Oklahoma Youth Federation (SWRC OYF) met and elected Aleta as the President SWRC OYF, and elections are held every two years. Ms. A. Thomas held that position non-consecutively more than once. Meanwhile I was the Southwest Region Conference Pathfinder Oklahoma Area Coordinator (SWRC PAC) and Ms. A Thomas began building the Bethel SDA Church Pathfinder Club, and she was the Southwest Region Conference Oklahoma Pathfinder Director (SWRC PD). . . . Pathfinders teaches leadership, hygiene, respect for self and others, missions at home and abroad, and service (volunteering, civil service, medical, etc.) to name a few, they also learn badges/skills to wear with their uniforms." *Exhibit A-4*.

Ms. Thomas's dedication to her church and its missions dwarfs the efforts and dedication of virtually all citizens. This dedication was formed long, long before Ms. Thomas came within the jurisdiction of this Court. She has a demonstrable, long-term and unwavering commitment to doing service to her church, to her God and to God's children.

C. Ms. Thomas's devotion to her children and grandmother.

To study and recognize the devotion Ms. Thomas has to her children is, indeed, life-affirming. To say that her efforts to adopt and raise underprivileged children have been remarkable would be a gross understatement. Ms. Thomas's efforts and devotion to her children are truly inspirational.

To put her remarkable achievements into a proper perspective, the Court only needs to understand the life circumstances that led Ms. Thomas to adopt her six children. Ms. Thomas has no biological children. She was raised and resided in a section of Tulsa that has long been plagued with poverty, crime, drug addiction and homeless children. Many would simply pack up and move from such an environment but, because of her religious beliefs, Ms. Thomas decided not only to lift herself above the chaos of her environment but to also try to lift her entire community.

As noted in the PSR and the attached letters of support, Ms. Thomas has adopted six extremely disadvantaged children, all of whom have had serious, life-threatening health conditions since birth. All of the children were born to mothers who were drug

addicts and who chose not to be mothers to their children. The following is an overview of the children Ms. Thomas has adopted and the profound health conditions of each of her children to which she lovingly attends.¹

AT-1: AT-1 is 10 yrs old. She was born drug addicted to PCP, and opioids. Due to the drug use of her mother, she had to have her right kidney removed when she was 3 years old. Since then, she has suffered from glomerulosclerosis.² She also she has bladder hypertrophy or, an enlargement of the bladder. She also suffers from asthma that is controlled by medication.

Because of her biological mother's drug use, she has also been diagnosed with significant learning disabilities. Social and emotional anxieties prevent her from attending school in person. Instead, she has been home-schooled by Ms. Thomas since Pre-K. She is also currently enrolled in speech therapy.

AT-2. AT-2 is 5years old. He was born drug-addicted to PCP, opioids, barbiturates, marijuana and cocaine. Because of this, he has had a feeding tube in his stomach since he was six months old. He also had to have stomach sectioned-off because the drugs caused his stomach to petrify causing gastroparesis.³ He has to be fed three times per day in his feeding tube because he cannot take enough nutrition by mouth to sustain his health. He has been hospitalized

¹ All of Ms. Thomas's children have surnames that begin with the letter "A." For that reason, they will be referred to as A-1, A-2, etc.

² Glomerulosclerosis is scarring of the filtering part of the kidneys (glomerulus). This causes a loss of protein into the urine. These proteins help fluid stay within the blood vessels. Without them, fluid leaks into the nearby tissue causing swelling which can lead to kidney scarring, transplant, removal and/or dialysis.

³ Gastroparesis is also called delayed gastric emptying, is a disorder that slows or stops the movement of food from the stomach to the small intestine.

more than ten times due to this condition.

His physical activity is extremely limited to prevent him from interfering with his feeding tube. If the feeding tube comes out, Ms. Thomas has less than an hour's time to get to an emergency facility to have it or a catheter placed. He is currently enrolled in feeding therapy.

AT-3. AT-3 is three years old. He was born prematurely at 27 weeks addicted to opioids, marijuana and crack cocaine. He has Amniotic Bands Syndrome on his legs.⁴ This was caused because his biological mother's amniotic fluid turned rope-like causing the bands to constrict on his legs. Had he not been born prematurely, he would have likely lost his leg. He has also been diagnosed with severe sleep apnea and stops breathing multiple times when he sleeps.

AT-4. AT-4 is two years old. He was born drug addicted to marijuana, opioids, heroin and cocaine. He has been diagnosed with mental retardation. He has epilepsy and frequently has 5 to 8 seizures per day. He also has gastroparesis which causes him to have seizures due to the pain from his stomach. He takes prescriptions for these health issues but the prescriptions are largely ineffective. He is currently enrolled in occupational, physical therapy at Speech and Beyond in Tulsa, Oklahoma.

AT-5. AT-5 is ten months old. She was born drug addicted to heroin, cocaine and PCP. Her biological mother had no prenatal care. She was born with herpes and was hospitalized three times within the first three months of her life because of severe withdrawals from the drugs to which she was born addicted. When she is sick, the herpes rashes appear under her skin like

⁴ Amniotic band syndrome, also known as constriction ring syndrome, happens when fibrous bands of the amniotic sac (the lining inside the uterus that contains a fetus) get tangled around a developing fetus.

cigarette burns. She is also currently seeing a ophthalmologist at His Vision because the herpes has effected her eyesight.

AT-6. AT-6 is ten months old and is AT-5's twin. He was also born addicted to heroin, cocaine and PCP. As with AT-5, his biological mother had no prenatal care. He also has herpes and has been hospitalized six times since he was born. He has cystic fibrosis and takes 6,000 units of Creon for exocrine pancreatic insufficiency each time he is fed a bottle. He has also been hospitalized multiple times for drug withdrawals. He also has severe rashes from his herpes.

Ms. Thomas's day starts at 6:00 am. She rises to prepare for the clothing, the meals, the medical care and nurturing that her family requires. Her days are generally filled with meal preparation, medical appointments and transporting her children.

As previously noted, Ms. Thomas was raised by her grandmother when her father and her mother died prematurely. Now, in addition to raising six adopted, medically-challenged children, Ms. Thomas also is the primary care giver for her grandmother who raised her. Her grandmother is elderly and cannot take care of her most basic needs. Ms. Thomas must assist her getting out of bed or chairs, must prepare her meals, must take care of her most basic hygiene and assist her in every activity necessary to sustain her life.

Ms. Thomas has overcome some of life's biggest challenges. The house she and her family lived in burned on March 3, 2022. All of them were forced to relocate. In January, 2022, a deer crossing the highway jumped on the van that she used to maintain her household. The van was totaled. She now drives an automobile that was loaned to

her by Melvin and Heather Overstreet.

D. Facts that define what type of person Ms. Thomas is.

Rhetorically, one is forced to ask, “What type of person undertakes to adopt, raise and care for such challenged babies and children and her grandmother?” Typically, providing such care for so many would require a person who, herself, was physically fit, energetic and well. But, Ms. Thomas is not. What makes Ms. Thomas’s notable self-sacrifices even more extraordinary is that she personally suffers from lupus, rheumatoid arthritis, asthma and congestive heart failure. As noted in the PSR, Ms. Thomas takes a weekly shot of Rocephin, along with chemotherapy infusions, to help control these conditions. She also takes daily medication regimens of Flexeril, Oxycodone, Pantoprazole, Lasix, Hydroxychloroquine, Mobic, and various dietary supplements. Despite those medications, Thomas is in near constant pain. Clearly, Ms. Thomas does not fit the stereotype of a person who has devoted her life to helping others but she is the embodiment of compassion and service to her fellow man.

The letters submitted on Ms. Thomas’s behalf speak to what type of person is before the Court. The following highlights what those who know Ms. Thomas best say about her.

1. Aleeta LaGrange. “About this time Aleta was in her late teens but she was taking care of her younger brother and his child was always with her, helping her grandmother, working a job, just about to graduate from high school, holding multiple

offices in the church, picking up food and clothes for hungry children in the neighborhood, etc. is the Aleta I met almost 30 years ago.” “I tell you all of that because my father was a faithful pastor of many churches in these regions for 37 years of my life. And to cross paths with a self-sacrificing jewel of a person like Aleta in this life, is a once in a lifetime occurrence.” “She has chosen to not only fight for her life but to carry on her shoulders and support the lives of her grandmother, her church, her community, her family and most importantly her children that count on her as the only mother they know.” *Exhibit A-1.*

2. Melvin Overstreet. “Ms. A. Thomas adopted her first child, (A-1) as a baby. I asked her why she did it and her reply was ‘her mother can’t take care of her. She needs to know I won’t abandon her, she’s loved.’ A few years later she adopted (A-2) followed by (A-3, A-4, and the twins. . . . [s]he needs to remain at home with her babies, because there is no extended family who could or would take care of her grandmother, children, one dog and or little people with disabilities.” *Exhibit A-4,5.*

3. Pastor Wilmore L. Green, IV, (Bethel Seventh-day Adventist Church). “Ms. Thomas has taken upon herself the mantle of adopting and caring for children with special needs. These needs range from gastrointestinal challenges to neonatal abstinence syndrome. In my interactions with her, I have observed how she balances maternal compassion and appropriate discipline with her children. . . . Ms. Thomas is an active and influential member of our church. She serves on our church board, she is the leader

of one of our youth groups, and she often leads the praise and worship portion of our services. Because of her impact on her community, I am convinced that Your Honor's wisdom would not be lost in granting leniency to Ms. Thomas." *Exhibit A-6*.

4. (Pastor) Carl B. Ming. "Ms. Aleta Thomas also has a passion for children with special need, and thus has dedicated time and resources in securing the best life experience for them. . . . Ms. Thomas continues to accomplish excellence in various fields of endeavor amid dealing with a number of health challenges including lupus, rheumatoid arthritis and congestive heart failure." *Exhibit A-7*

5. Danee Thomas. "My name is Danee Thomas. Aleta Thomas is my aunt! She's been raising me since I was three days old from the hospital. . . . During my entire 9 months of pregnancy, my Anie has me through every appointment every trial and tribulation I ever went through. Being a teenager going through depression after losing my brother and going through a pregnancy alone was one of the lowest moments I've ever been in and after I had my child it was even worse, postpartum had gotten the best of me and in those rough times my Anie stepped up and took my kid in so I could get myself together and healthy on top of handling her own 6. . . . Aleta is the backbone on the community in north Tulsa and to the Thomas family." *Exhibit A-8*.

6. Loraine Scott. "I am writing this letter to urge the leniency in the sentencing of my friend Aleta Thomas. . . . Aleta currently is the mother of 6 adorable young children. . . . Each child has a different issue due to drug abuse before being born. God has given Aleta an empathetic, sympathetic, and gentle heart to care for these children which she gave no birth. Aleta not only have 6 children, she takes care of but a grandmother as well that live with her and

that she supports medically, spiritually, and financially.” *Exhibit A-9*.

7. Icy Walker. I am more than happy to speak on the behalf of Ms. Aleta Thomas. . . . I watched a woman be the backbone to her family, open her home to young adults from the streets and be a beacon for many small and large businesses, while also dealing with her own health challenges. . . . Lastly, my hope is that this system does not uproot a woman who is a pillar for so many individuals, this lady walks the walk and talks the talk and can be depended on.” *Exhibit A-10*.

8. Jeremiah Williams. I have known Ms. Thomas around 19 years and she is a family friend, like an aunt to me. She has always been deeply involved with the church especially with the youth (me included I am 19 years old currently), we have went evangelizing, singing for the church and hosting bible studies for the community. She has also supported and encouraged me in my schooling and even currently to college such as helping me with resources and study guides for college reasons and health tips. I have always seen her as a nurturing figure especially with her kids she has adopted, making them know they are family and never excluding or allow anyone else to exclude them from one another, this is clearly evidently seen when you see the heartwarming interactions, love and support they show each other.” *Exhibit A-11*.

9. Kelley Herrin. “I have seen first hand the love and gentle care she provides for each and everyone of her kids. If Aleta did not have these kids I don’t believe they would have much of a future. . . . There have been many times Aleta has spent days and nights up to weeks in the hospital because of the care the kids needed. I can truly say Aleta has never left their side.” *Exhibit A-12*.

10. LaDonna Stevens. “Twenty plus years ago, I began engaging in many activities

and events with Ms. Aleta. She served as choir director and is an ambassador for the church and community choir that me and my children were members of. Ms. Aleta had a very positive impact on my children through the spiritual and life skill support she exhibited. I have witnessed her passion to care and love my children, community children and the children she's adopted. . . . I've also witnessed her creating and collaborating with others to host car washes, many fundraisers, serving the elderly, serving the homeless, reaching out to those that are incarcerated (incarcerated) by ministering to them and others with needs." *Exhibit A-13.*

11. Ashlee Thomas. "Aleta Thomas is my aunt. I've known her for eighteen years. She has always been positive and nurturing in my life. My aunt shows the utmost love and overall what a good person is to her children. She teaches them how to love everything around them. Then how to enjoy every moment in life. She shows her kids that their illnesses are not something to hold them back to always keep going no matter what. She is an amazing mother." *Exhibit A-14.*

12. Dana Marshall. "(Ms. Thomas is) always a ray of sun. . . . She's a positive look into the children's life and she molds them into great people. She is a great mother and she goes out of with them to make new fond memories with them." *Exhibit A-15.*

13. Kennedy Hudson. "I call Ms. Thomas my aunt I met her when at the age of nine years old at which point I started to go through numerous family issues until about the age of twenty-one and during that time she provided me somewhere to stay a multitude of times without question. . . . Since 2012, Aleta has adopted five more children with varying health issues she does not miss a doctor's appointment and caters to their every need. I can honestly say without her most of these children would not be alive today. . . . A mistake was made and a lesson was

learned but the removal of her from the community would not only hurt her but the lives of so many and can be detrimental to the health of her as well as her children.” *Exhibit A-16*.

14. Amarah Thomas. “My mommy adopted me first. . . . Sometime its hard for me to understand stuff but my mom makes it so I can. My mom is also my teach cause she homeschools me and my brother we get up at 6 so we don’t wake the babies up She helps all the kids at my church and other churches. My mom gets sick sometimes but she prays a lot. . . My mom help a lot of people and teach us to help.” *Exhibit A-17*.

15. Jayveon Hudson. “Aleta Thomas has helped me the last 6 yrs so much. She has gave me a job when no one else would let me work because of my learning disability. She helped me find a way to become a real somebody that can be a good person. She made me see that just because of my disability I am still worth it. . . . Aleta has done a lot of good things for alottt of people please dont take her away from her church, community and most of all her family I don’t think they would make it with out her cause nobody is gonna wanna take on 6 special needs kids and her grandmother and the dog. The kids have already been thru a bad time and she is all they know. She loves them more than anything. Aleta has lupus also and other conditions that God and only God helps her maintain. Please keep her here with her family.” *Exhibit A-18*.

16. May E. Bruner. “I am writing this letter on behalf of my granddaughter Aleta Thomas. I am 80 almost 81 years old. . . . Aleta I call her PRECIOUS has always had a strong connection and love for God. As a child I knew that she was so special, she never gave me any trouble she always went to school and church. . . . The last 10 years Aleta has been my sole caregiver. She makes sure that I am well taken care of. She cooks for me cleans, washes my clothes. Because of my age and degenerative diseases in my back neck and legs, Precious has to

bathe me and assist me with walking and sitting. She takes me to everyone of my many drs appointments. . . . She has adopted 6 special needs children and doesn't receive any money for them because they were never in foster care the Lord has tremendously blessed her over the years to take care of these children because of her willingness to serve him. . . . Your honor please please find it in your heart not to take her away from our family the time I have left on earth we need to spend it together. . . . She loves God and us too much to do anything to cause reproach upon his name.” *Exhibit A-19*.

As the foregoing excerpts of letters written on Ms. Thomas's behalf demonstrate, she is an extraordinary person whose compassion for others is a guiding light for anybody who knows her. She has devoted herself to human causes since childhood and is a beacon of light in her church, the lives of her children and the lives of those who know her best.

E. The explanation for Ms. Thomas's violation of the law.

Ms. Thomas does not offer any *excuses* for her violation of the law. Nonetheless, there is an *explanation* for it. Ms. Thomas did not take PPP money out of greed. Of the money she received, the largest purchase she made for herself was a used minivan for which she paid \$6,500.00 that allowed her to transport her kids as needed until it was destroyed by the deer crossing that was mentioned above.

Much of the money she received was used for expenses that she believed were allowable under the PPP loan program if the initiation of the loans been appropriate at the inception. She paid approximately \$50,000.00 to lease space for her daycare. She paid approximately \$23,000.00 for furniture, equipment and lawn services for the daycare.

She used approximately \$25,000.00 for supplies for the daycare. Most of the rest she gave away on mission work and to people who had provided valuable assistance to her in mission work and her child care for others.

As the Court is aware, Ms. Thomas has always worked with poor, disadvantaged persons and young adults. Because of circumstances unique to them, many of those persons have trouble finding and holding jobs. Ms. Thomas had used them for assistance in her childcare business and in her mission work. When her PPP loans were funded, she gave the following amounts to them as compensation for their past and future services.

Person	Amount Given
1. Gail Herrin	\$31,000.00
2. Pepper Jones	\$29,000.00
3. Jayveon Hudson	\$26,500.00
4. Danee Thomas	\$32,700.00
5. Mitchell Hudson	\$25,000.00
6. May Bruner	\$22,300.00
7. Demetrios Harrison	\$18,500.00
8. Kobe Eubanks	\$19,100.00
9. Amauri Hudson	\$10,000.00
10. Kennedy Hudson	\$19,900.00
11. Katrina West	\$27,800.00
12. Asya (LNU)	\$ 5,000.00
13. Amarah Thomas	\$ 2,500.00

Areas of contention arise around the initiation of Ms. Thomas's PPP loans and those of her acquaintances to which Ms. Thomas offers the following responses. The government contends that the persons who assisted Ms. Thomas in acquiring her PPP loans, namely Joniayah Harrison and Gail Jackson, are fictional and do not exist. Ms.

Thomas is willing to take an oath and testify that persons who presented themselves to her using those names are actual persons who guided her through the PPP loan process.

Those persons do exist although it is possible that they used aliases in their own esoteric plans to obtain money for themselves. Their existence has been verified through one of Ms. Thomas's co-defendants, Pepper Jones.

When early reports of the PPP loan program became public, Ms. Thomas attempted to apply on her own but found the process too complicated. She called brokers to assist her but all wanted up-front money which Ms. Thomas didn't have. Through a friend, Ms. Thomas located Ms. Harrison. Ms. Harrison prepared the false documents that supported the PPP loan applications. Although Ms. Thomas's entities were not incorporated and registered with the IRS, Ms. Harrison explained that Ms. Thomas would have three years to register with the IRS and file back tax returns to legitimize her loan applications.

An additional area of contention involves the loans that Ms. Thomas's friends/acquaintances received. In that regard, Ms. Thomas made application for an individual loan for herself through Womply which was funded. Womply is an entity that processed PPP loans. Womply posted a video on You Tube to show people how to apply which Ms. Thomas viewed. It's website provided a template for applying and even suggested the possible expense amounts an individual might use in their application. Ms. Thomas used those amounts on her application although she did not have adequate

documentation of the expenses.

Ms. Thomas did nothing other than to tell others that they could apply for a loan through Womply. The fact that all of their loans were in the same amount arises from the fact that they, too, used the Womply template and its suggested expense amounts. To have a loan funded required a bank account. Many did not have bank accounts and Ms. Thomas allowed their loans to be funded into her bank account merely as a favor to them. She received nothing for allowing her bank account to be used.

Greed was not Ms. Thomas's motive to apply for PPP loans. Because of her mission work and her childcare businesses, she sought money to keep and enhance her businesses and to reward those who had previously assisted her and those who were presently assisting her. Additional significant money was used to support mission work.

F. The collateral consequences of incarceration. It goes without saying that this Court is keenly aware of the collateral consequences of incarceration on families. Those consequences are present to varying degrees in every sentencing proceeding. Nonetheless, the collateral consequences to incarceration of Ms. Thomas would be catastrophic to the lives of her children and grandmother. The care that Ms. Thomas provides to her children and grandmother take this case far from the heartland of cases involving collateral consequences.

This motion speaks to the necessary and critical services Ms. Thomas provides to her children and her grandmother. As the Court can see, Ms. Thomas's children could

not have been raised by their drug-addicted mothers. Ms. Thomas's children were virtually un-adoptable at birth. The birth deficiencies and healthcare needs were and continue to be overwhelming and catastrophic. While meaning no disrespect to adoptive parents, Ms. Thomas's children are not the stereotypical children that adoptive parents seek out. Without Ms. Thomas, the children would likely have become life-long wards of the state.

Those circumstances will become equally dire if Ms. Thomas is incarcerated. There are no relatives who can or will assume the care of her children. The only option if Ms. Thomas is incarcerated would likely be for the children to go into the custody of the Oklahoma Department of Human Services. Under even the best-case scenario, a foster parent might assume the responsibility of taking one child as a foster child which would also likely mean that all six siblings would be separated from the other children who they regard as their brothers and sisters. All would suffer psychological trauma which would inexorably lead to unacceptable consequences to their mental, emotional and physical health. The dire consequences to each of the children can simply not be overstated.

In addition to her children, Ms. Thomas is also the care giver for her own grandmother. As noted above, Ms. Thomas's grandmother raised her after Ms. Thomas's biological parents met early deaths. For that reason, Ms. Thomas is devoted to the care of her grandmother. Without assistance, Ms. Thomas's grandmother, however, cannot walk, cannot get out of bed, cannot feed herself and cannot perform her own basic hygiene.

Likewise, there are no alternatives for the care of Ms. Thomas’s grandmother. If Ms. Thomas is incarcerated, the consequences to her grandmother will be equally dire and catastrophic.

G. Another relevant sentencing consideration. Previously, the wardens of federal correctional institutions had the authority to request “compassionate release” for prisoners under limited circumstances. One of those circumstances included situations in which the prisoner’s children had no parents or care givers other than the prisoner. *See*, 18 U.S.C. § 4205(g) (repealed). Although the compassionate release statute has been repealed, the authority for the Court to reduce a sentence of imprisonment without restriction *after* it has been imposed still exists.

The Court’s authority to do so is stated in 18 U.S.C. § 3582(C)(1)(c)(i). That subsection states:

The court may not modify a term of imprisonment once it has been imposed except that—

(1) in any case—

(A) *the court*, upon motion of the Director of the Bureau of Prisons, or upon motion of the defendant after the defendant has fully exhausted all administrative rights to appeal a failure of the Bureau of Prisons to bring a motion on the defendant’s behalf or the lapse of 30 days from the receipt of such a request by the warden of the defendant’s facility, whichever is earlier, ***may reduce the term of imprisonment (and may impose a term of probation or supervised release with or without conditions that does not exceed the unserved portion of the original term of imprisonment), after considering the factors set forth in section 3553(a) to the extent that they are applicable, if it finds that—***

(i) *extraordinary and compelling reasons warrant such a reduction;*

Stated otherwise, the Court may reduce a term of imprisonment *after* it has been imposed based on “extraordinary and compelling reasons” that are “set forth in section 3553(a).” Section 3553(a) is the very statute the Court must consider in determining and imposing a judgment in this case.

Admittedly, even the current version of the “compassionate release” statute does not apply in this case because a sentence has not yet been imposed. The relevant portion of the current statute has been reprinted for the Court in this motion simply to point out that the Court has virtually unlimited authority under the §3553(a) factors to impose a sentence without imprisonment or to terminate an imprisonment early after it has been imposed. In this case, Ms. Thomas respectfully requests that the Court utilize the §3553(a) factors to prevent imprisonment under these exceptionally “extraordinary and compelling reasons.” As noted throughout this motion for variance, Ms. Thomas has dedicated her life to helping others. It is respectfully suggested that her dedication to assisting others should be recognized by her receiving a probationary sentence.

LEGAL CONSIDERATIONS UNDER SECTION 3553(a)

When determining a sentence, a court must consider the seven statutory factors set forth in § 3553(a). The factors include:

1. The nature and circumstances of the offense and the history and characteristics of the defendant;
2. the need for a sentence to reflect the seriousness of the crime, deter future criminal conduct, prevent the defendant from committing more crimes, and

provide rehabilitation;

3. the sentences that are legally available;
4. the Sentencing Guidelines (for the offense or violation);
5. the Sentencing Commission's policy statements;
6. the need to avoid unwarranted sentence disparities; and
7. the need for restitution. *See* 18 U.S.C. § 3553(a) (1–7).

United States v. Barnes, 890 F.3d 910, 915 (10th Cir., 2018).

In *United States v. Booker*, 543 U.S.220 (2005), the Court stated that sentencing courts must treat the United States Sentencing Guidelines (“the Guidelines”) as just one of a number of sentencing factors set forth in 18 U.S.C. § 3553(a). The primary directive in Section 3553(a) is for sentencing courts to “impose a sentence sufficient, but not greater than necessary, to comply with the purposes set forth in paragraph 2.” Section 3553(a)(2) identifies those “purposes” of sentencing as:

- (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.

Section 3553(a) further directs sentencing courts to consider the nature and circumstances of the offense and the history and characteristics of the defendant; the

kinds of sentences available; the need to avoid unwanted sentencing disparities among defendants with similar records who have been found guilty of similar conduct; and the need to provide restitution to any victims of the offense.

In the final analysis, a sentencing court should also consider all of the § 3553(a) factors to determine what sentence is appropriate within a Guideline range. And where the Guidelines conflict with other factors set for in § 3553(a), the court has the discretion to resolve the conflicts in such a manner as is necessary to meet the statutory aims and the goals of sentencing. In this case, Ms. Thomas respectfully submits that there are a variety of factors that suggest that she is a worthy candidate to receive a variance as requested in this motion.

SENTENCING FACTORS FOR THE COURT’S CONSIDERATION

18 U.S.C. § 3553(a) sets for the factors a Court should consider when imposing a sentence. It includes the following.

- a. to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense . . .**

Ms. Thomas has great respect for the law. Her violation of the law arises from the fact that she had long been providing childcare services for women and families. As noted in the letters attached hereto, Ms. Thomas was/is the backbone of her community. She was/is the “go to” person when people in her community need help with things such as childcare. Many people helped her from time to time for little or no pay.

Although Ms. Thomas had not formed a business entity and registered it with the

Internal Revenue Service, she felt that the government's PPP program was to assist persons such as her to pay people for the services they rendered. She ignored the strict requirements of the program and provided false information in support of her applications for PPP loans. When the funds arrived, she paid them out to the persons who had been helping her over the years and to fund mission work.

Aside from this error in judgment, as an adult, Ms. Thomas has been a model of convention. She strictly conforms to the tenets of her Christian faith and the tenets of society. She did not commit the instant offenses based on any perceived disrespect for the law.

Although "punishment" is always a consideration for the Court in fashioning a sentence, Ms. Thomas's punishment does not need to include incarceration which will harshly punish those who need her the most at a time when they need her the most.

b. to afford adequate deterrence to criminal conduct . . .

The only deterrence that the incarceration of Ms. Thomas would provide in this case would be to persons other than Ms. Thomas from committing similar conduct. Ms. Thomas has already been adequately deterred. Should the Court show the exceptional grace that Ms. Thomas seeks from it, she will be on probation and/or supervised release under conditions that will most certainly send her to prison should she violate her release conditions. The potential loss of her children and the loss of her ability to care for her grandmother will provide a greater deterrence than prison would provide to prevent Ms.

Thomas from committing any further conduct in violation of the law.

c. to protect the public from further crimes of the defendant . . . Ms.

Thomas is not and never has been a threat to the physical safety of any citizen. Her offense was a financial offense. Rules of supervision by the Probation Office will significantly ensure that she does not have the opportunity to commit further financial offenses.

d. to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner.

Ms. Thomas has significant physical ailments including lupus, rheumatoid arthritis, asthma and congestive heart failure. Theoretically, she might benefit from having institutionalized medical care but the reality is that she is able to provide adequately for her own healthcare. Correctional facilities do not normally provide the level of healthcare that Ms. Thomas is able to provide for herself.

It is respectfully submitted that the most significant healthcare considerations at play in this case are those of Ms. Thomas's children and grandmother. Their needs are exceptional and extremely challenging. Only Ms. Thomas can provide the level of care that her children and grandmother need and, without her, it is a near certainty that all of their physical and mental well-being will suffer tremendously. Ms. Thomas is needed to provide the level of care that each of them need.

CONCLUSION

Ms. Thomas respectfully apologizes to the Court for her involvement in the

offense she committed and accepts the responsibility for it. She respectfully requests that the Court grant her a variance of a sufficient amount/quantity as to permit her to serve an extended period of probation and/or supervised release so that all the goals of sentencing can be met without catastrophic collateral consequences.

Respectfully submitted,

S/ Keith A. Ward
Keith A. Ward, PLLC
1874 S. Boulder
Tulsa, OK 74119
(918) 764-9011 Voice
keith@keithwardlaw.com

Attorney for Aleta Thomas

CERTIFICATE OF SERVICE

I certify that I served all registrants in the above-captioned case by submitting this document to the Clerk of the Court using the ECF System for filing and transmittal.

S/ Keith A. Ward