UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

No. 5:23-CR-94-2

UNITED STATES OF AMERICA

v.

MONICA FAYE BARNES

DEFENDANT'S SENTENCING MEMORANDUM AND MOTION FOR IMPOSITION OF A MITIGATED SENTENCE PURSUANT TO 18 U.S.C. 3553(a)

NOW COMES Defendant, MONICA FAYE BARNES ("Defendant"), by and through counsel and moves this Honorable Court to impose a sentence that is reasonable in light of the factors set forth in 18 U.S.C. 3553(a) and in support thereof, shows the following:

STATEMENT OF THE CASE

Defendant was named in a one count Criminal Information on March 22, 2023. With the benefit of a Plea Agreement, she entered a guilty plea on April 26, 2023, to conspiracy to commit wire fraud, in violation of 18 U.S.C. § 1349 in connection with PPP Loans.

Defendant is aware that PPP loan fraud is a national hot button issue. The Court is faced with consideration of the guidelines and § 3553 to fashion an appropriate sentence where, as here, we are dealing with a 51 year old woman with no criminal record, a college degree and a thriving catering business, a business which will be crucial to her ability to pay the restitution. In her absence, the business will fail with little likelihood that it can be revived.

ARGUMENT

Defendant owns and operates a catering business in Wilson, NC, Minnie's Banana Cups and Catering Service, Inc. She was introduced to several individuals who, for a substantial fee, were fraudulently marketing PPP loans to vulnerable individuals. The application was prepared by the masterminds and submitted to Defendant for her signature. Paragraph 11 of the PSR states that the masterminds "facilitated the disbursement of more than $15 million in COVID loans." Defendant willingly agreed to this scheme and accepts full responsibility for falling for this too good to be true experience. Through her plea she has agreed to pay restitution in excess of $150,000.

The PSR outlines the factors to be considered by § 3553(a)(1). Section 2(A) is the most consequential of the four factors to be considered in Section (2). Certainly PPP fraud is a serious offense and the law is to be respected which leaves the issue of just punishment. Prison time or some alternative punishment?

Her agreed upon guideline range is a total offense level of 13, criminal history 1 with a guideline imprisonment range of 12 to 18 months. A total offense level of 13 under the guidelines affords sentencing options.

A probationary sentence with community service and perhaps weekends in jail in combination with the significant restitution would afford adequate deterrence. Defendant will not be a recidivist nor is she in need of the factors set out in paragraph 2(D).

CONCLUSION

As reflected in the PSR, Defendant worked very hard to earn her degree from the University of Mount Olive after earlier schooling at a community college and then the University of Phoenix online where she earned an associate degree. It took her 13 years to earn her degree and she did so while working fulltime. She has never shied away from work, currently holding down a job in the IT Department of Truist Bank in addition to her catering business. She comes to you with an excellent work ethic and good character as reflected in the attached letters marked as Exhibit A.

She rues the day she was introduced to the masterminds of this PPP loan scheme but has no one to blame but herself. She accepts full responsibility.

The factors in paragraphs 2A through 2D of § 3553(a) would be satisfied by a probationary sentence to include community service and perhaps weekends in jail together with the $150,000 plus restitution. With this financial commitment along with payment of the $100 special assessment she is not in a position to pay a fine.

It is requested that if Defendant is sentenced to prison the Court recommend that she be incarcerated at a nearby facility and permitted to self-report.

Respectfully submitted this the 20th day of July, 2023.

/s/ David W. Long
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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing through the electronic service function of the Court's electronic filing system, as follows:

David G. Beraka
Assistant United States Attorney
150 Fayetteville Street
Suite 2100
Raleigh, NC 27601

This the 20th day of July, 2023.

/s/ David W. Long
David W. Long