

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF TENNESSEE
3 GREENEVILLE

4 UNITED STATES OF AMERICA, . DOCKET NO. CR-2-22-76
5 GOVERNMENT, .
6 VS. . GREENEVILLE, TN
7 CHAD BRANDON THOMAS, . AUGUST 21, 2023
8 DEFENDANT. . 3:07 P.M.
9

10
11 TRANSCRIPT OF PROCEEDINGS
12 BEFORE THE HONORABLE J. RONNIE GREER
13 UNITED STATES DISTRICT JUDGE

14 APPEARANCES:

15 FOR THE GOVERNMENT: DEPARTMENT OF JUSTICE
16 OFFICE OF U.S. ATTORNEY
17 MAC D. HEAVENER, III, AUSA
220 WEST DEPOT STREET, SUITE 423
GREENEVILLE, TN 37743

18 FOR THE DEFENDANT: DONNA M. BOLTON, ATTORNEY AT LAW
19 DONNA MICHAEL BOLTON, ESQ.
200 WEST UNAKA AVENUE
21 JOHNSON CITY, TN 37604

22 COURT REPORTER: KAREN J. BRADLEY
23 RPR-RMR
24 U.S. COURTHOUSE
220 WEST DEPOT STREET
GREENEVILLE, TN 37743

25 PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY, TRANSCRIPT
PRODUCED BY COMPUTER.

1 (CALL TO ORDER OF THE COURT AT 3:07 P.M.)

2 THE COURT: GOOD AFTERNOON.

3 MR. HEAVENER: GOOD AFTERNOON, YOUR HONOR.

4 THE COURT: ALL RIGHT. MS. HOPSON, WOULD YOU
5 CALL THIS CASE, PLACE.

6 THE CLERK: USA VERSUS CHAD BRANDON THOMAS,
7 CASE NUMBER CR-2-22-76.

8 THE COURT: ALL RIGHT. MR. THOMAS IS BEFORE
9 THE COURT THIS AFTERNOON FOR SENTENCING IN THIS CASE.

10 LET ME PULL IT UP ON MY COMPUTER, SORRY.

11 SORRY, I'M HAVING TROUBLE FINDING THE FILE.
12 HERE IT IS, NEVER MIND.

13 ALL RIGHT. AS I SAID, MR. THOMAS IS BEFORE THE
14 COURT TODAY FOR SENTENCING IN THIS CASE. HE HAS BEEN
15 CONVICTED ON COUNT 1 OF THE INDICTMENT IN THE CASE, WHICH
16 CHARGED HIM WITH WIRE FRAUD IN VIOLATION OF TITLE 18,
17 UNITED STATES CODE, SECTION 1343.

18 A PRESENTENCE REPORT WAS ORDERED. THAT REPORT
19 HAS BEEN PREPARED. IT WAS DISCLOSED TO THE PARTIES ON
20 DECEMBER 2, 2022.

21 IN THAT PRESENTENCE REPORT THE PROBATION
22 OFFICER ESTABLISHES A TOTAL OFFENSE LEVEL OF 20, A
23 CRIMINAL HISTORY CATEGORY OF I, AND A RESULTING ADVISORY
24 GUIDELINE RANGE OF 33 TO 41 MONTHS.

25 BY STATUTE MR. THOMAS FACES A MAXIMUM TERM OF

1 20 YEARS, AND THERE ARE SOME GOVERNMENT OBJECTIONS TO THE
2 PRESENTENCE REPORT.

3 ALL RIGHT. MS. BOLTON, HAVE YOU RECEIVED AND
4 READ A COPY OF THE PRESENTENCE REPORT AND THE ADDENDUM TO
5 THE REPORT?

6 MS. BOLTON: I HAVE, YOUR HONOR.

7 THE COURT: AND HAVE YOU REVIEWED THOSE AND
8 DISCUSSED THEM FULLY WITH MR. THOMAS?

9 MS, BOLTON: YES.

10 THE COURT: THANK YOU.

11 MR. THOMAS, HAVE YOU ALSO RECEIVED AND READ A
12 COPY OF THE PRESENTENCE REPORT AND THE ADDENDUM TO THE
13 REPORT?

14 THE DEFENDANT: I HAVE.

15 THE COURT: HAVE YOU REVIEWED IT AND DISCUSSED
16 IT FULLY WITH YOUR ATTORNEY?

17 THE DEFENDANT: YES, SIR.

18 THE COURT: AND HAVE YOU HAD SUFFICIENT TIME TO
19 DO SO?

20 THE DEFENDANT: YES.

21 THE COURT: ALL RIGHT. THANK YOU.

22 ALL RIGHT, MR. HEAVENER, LET'S TAKE UP THE
23 GOVERNMENT'S OBJECTIONS TO THE PRESENTENCE REPORT.

24 MR. HEAVENER: YOUR HONOR, AT THE TIME THE
25 UNITED STATES FILED ITS OBJECTIONS, WE DID NOT KNOW THE,

1 WHAT THE STATUS OF THE MOTION TO WITHDRAW THE PLEA
2 AGREEMENT WAS GOING TO BE, SO THE ONLY REAL OBJECTION THAT
3 I HAVE AT THIS POINT IS THE GOVERNMENT DID NOT FILE A
4 MOTION FOR ACCEPTANCE OF THE ONE ADDITIONAL LEVEL FOR
5 ACCEPTANCE, I WOULD PERSIST IN THAT OBJECTION. THAT ADDS
6 AN ADDITIONAL ONE LEVEL TO THE OFFENSE LEVEL.

7 I WILL WITHDRAW THE GOVERNMENT'S OBJECTION TO
8 THE OBSTRUCTION OF JUSTICE ENHANCEMENT. THAT
9 ENHANCEMENT -- THAT OBJECTION WAS LARGELY BASED ON THE
10 IDEA THAT THERE WOULD HAVE BEEN INCONSISTENT SWORN
11 TESTIMONY TO SUPPORT THE MOTION TO WITHDRAW THE PLEA, BUT
12 THAT NEVER MATERIALIZED, SO BASED ON THAT I WOULD WITHDRAW
13 THAT OBJECTION. SO I THINK IT'S JUST ONE ADDITIONAL
14 LEVEL.

15 THE COURT: ALL RIGHT, AND LET ME MAKE SURE I
16 UNDERSTAND. THERE WAS NO ORIGINAL MOTION UNDER
17 3E1.1(2) --

18 MR. HEAVENER: THAT'S CORRECT, YOUR HONOR.

19 THE COURT: -- SO THIS IS NOT REALLY IN THE
20 FORM OF AN OBJECTION IN THAT SENSE, IT'S MORE THAT THE
21 PROBATION OFFICER APPLIED IT WITHOUT A GOVERNMENT MOTION.

22 MR. HEAVENER: THAT'S CORRECT, YOUR HONOR.

23 THE COURT: ALL RIGHT. MS. BOLTON, IS IT NOT
24 CORRECT THAT WITHOUT A GOVERNMENT MOTION, HE CANNOT GET
25 THAT POINT?

1 MS. BOLTON: YES, YOUR HONOR.

2 THE COURT: ALL RIGHT. SO IT APPEARS I DON'T
3 HAVE ANY, ANY OPTION OTHER THAN TO SUSTAIN THE
4 GOVERNMENT'S OBJECTION.

5 MS. BOLTON: YES.

6 THE COURT: ALL RIGHT. THEN THE GOVERNMENT'S
7 OBJECTION IS SUSTAINED. THE ONE LEVEL REDUCTION IN
8 OFFENSE LEVEL REFLECTED IN PARAGRAPH 47 OF THE PRESENTENCE
9 REPORT DOES NOT APPLY HERE BECAUSE THERE WAS NO GOVERNMENT
10 MOTION FOR THE ADDITIONAL POINT BASED ON ACCEPTANCE OF
11 RESPONSIBILITY. THAT MEANS THE TOTAL OFFENSE LEVEL IS 21,
12 RATHER THAN THE 20 REFLECTED IN THE PRESENTENCE REPORT, A
13 TOTAL OFFENSE LEVEL OF 21 AND A CRIMINAL HISTORY CATEGORY
14 OF I RESULTS IN AN ADVISORY RANGE OF 37 TO 46 MONTHS.

15 DO YOU AGREE WITH THAT, MS. BOLTON?

16 MS. BOLTON: YES, YOUR HONOR.

17 THE COURT: AND, MR. HEAVENER?

18 MR. HEAVENER: I DO, YOUR HONOR.

19 THE COURT: ALL RIGHT. THEN WITH THAT CHANGE
20 THE COURT WILL ADOPT THIS PRESENTENCE REPORT AS THE
21 COURT'S FINDINGS IN THE CASE. WE'LL APPLY AN ADVISORY
22 RANGE OF 37 TO -- I JUST SAID IT, HOW CAN I FORGET IT THAT
23 QUICKLY -- 37 TO 46 MONTHS AND A STATUTORY MAXIMUM OF 20
24 YEARS.

25 ALL RIGHT, MR. HEAVENER, LET ME HEAR YOUR

1 ARGUMENT.

2 MR. HEAVENER: THANK YOU, YOUR HONOR.

3 YOUR HONOR, I HAVE FILED A SENTENCING
4 MEMORANDUM IN WHICH THE UNITED STATES REQUESTS A SENTENCE
5 OF 41 MONTHS IN THIS CASE. I BELIEVE THAT THE 3553(A)
6 FACTORS SUPPORT THAT SENTENCE.

7 THE FIRST FACTOR THAT THE GOVERNMENT WOULD
8 FOCUS ON IS THE NATURE AND CIRCUMSTANCES OF THE OFFENSE.
9 OBVIOUSLY, THIS WAS A WIRE FRAUD OFFENSE, IT'S A SERIOUS
10 FELONY. ITS STATUTORY MAXIMUM PENALTY IS 20 YEARS IN
11 PRISON. SO THE NATURE OF THE OFFENSE ITSELF IS VERY
12 SERIOUS.

13 THE CIRCUMSTANCES OF THE OFFENSE ARE ALSO VERY
14 SERIOUS. SOME OF THE AGGRAVATING CIRCUMSTANCES ARE
15 CAPTURED WITH THE GUIDELINE ENHANCEMENTS AND SOME ARE NOT.
16 I'LL BEGIN WITH THE GUIDELINE ENHANCEMENTS. THE LOSS
17 AMOUNT IS OBVIOUSLY THE THING THAT MAKES THIS OFFENSE THE
18 MOST SERIOUS UNDER THE GUIDELINES. THERE IS AN INCREASE
19 FOR A LOSS BETWEEN \$250,000 AND \$550,000; SO WHILE WITHIN
20 THAT RANGE IT'S CLOSER TO 250,000, IT'S STILL A VERY
21 SERIOUS LOSS.

22 AND I WOULD ALSO NOTE THAT WITH REGARD TO THE
23 LOSS ITSELF, IT IS NOT A ONE TIME EVENT. THERE ARE THREE
24 SEPARATE PAYROLL PROTECTION PROGRAM LOANS THAT CAUSED THAT
25 LOSS AMOUNT; AND IF YOU LOOK AT THOSE LOANS, THEY, THEY

1 GET INCREMENTALLY MORE WITH EACH, EACH EXECUTION. SO IT
2 STARTED WITH A \$31,200 LOAN FOR CHAD THOMAS ENTERPRISES,
3 THAT WAS ON MAY 3RD OF 2020. THE NEXT ONE WAS SUBMITTED
4 ABOUT TWO WEEKS LATER ON MAY 18TH OF 2020 FOR \$69,000, SO
5 HE ALMOST DOUBLED THE AMOUNT HE REQUESTED WITH THE SECOND
6 ONE; AND THEN THE THIRD ONE, WHICH IS THE LARGEST ONE, WAS
7 ABOUT A LITTLE OVER A MONTH LATER ON JULY 6TH OF 2020,
8 THAT'S THE KINGDOM OF GOD SUBMISSION THAT HE OBTAINED
9 \$207,500 AS A PAYROLL PROTECTION PROGRAM LOAN. SO AS THE
10 COURT CAN SEE, NOT ONLY IS IT A SIGNIFICANT LOSS AMOUNT,
11 BUT IT'S GETTING INCREMENTALLY MORE EACH TIME HE DOES IT.

12 THE COURT: MAY I ASK YOU A QUESTION THERE,
13 MR. HEAVENER?

14 MR. HEAVENER: YES, SIR.

15 THE COURT: WITH RESPECT TO KOG, IS IT THE
16 GOVERNMENT'S POSITION THAT THAT ENTIRE INCORPORATION WAS A
17 FRAUD?

18 MR. HEAVENER: YES, SIR. WELL, IT WAS AN
19 INCORPORATED BUSINESS, BUT IT WAS A SHAM COMPANY.

20 THE COURT: SHAM COMPANY?

21 MR. HEAVENER: YES, SIR.

22 THE COURT: DO YOU HAVE ANY INFORMATION TO
23 SUGGEST THAT IT WAS CREATED SIMPLY FOR THE PURPOSE OF
24 APPLYING FOR A PPP LOAN?

25 MR. HEAVENER: I BELIEVE THE DATE THAT IT WAS

1 INCORPORATED WAS VERY CLOSE IN TIME TO THE SUBMISSION OF
2 THE APPLICATION. IN ADDITION, FOR THE PPP LOANS
3 THEMSELVES YOU EITHER HAD TO SUBMIT TAX RETURNS, LIKE 941
4 QUARTERLY TAX REPORTS THAT YOU WOULD FILE WITH THE IRS TO
5 SUPPORT YOUR APPLICATION, HE FILED FRAUDULENT 941 REPORTS
6 FOR THE FIRST TWO LOANS; BUT BECAUSE THE SECOND -- THE KOG
7 LOAN WAS, THE COMPANY WAS INCORPORATED SO SOON IN TIME
8 BEFORE THE LOAN APPLICATION, THE SMALL BUSINESS ADMINIS-
9 TRATION WOULD ACCEPT A PAYROLL LEDGER, AND SO THAT LEDGER
10 WAS JUST RIPE WITH FRAUD, TO INCLUDE THE TWO TELEVISION
11 MINISTRY INDIVIDUALS THAT WERE LISTED AS EMPLOYEES OF KOG.
12 SO WE THINK ALL OF THAT WAS CREATED JUST TO APPLY FOR THE,
13 FOR THE PPP LOAN CIRCUMSTANTIALY.

14 THE COURT: ALL RIGHT. GO AHEAD.

15 MR. HEAVENER: THEN THE SECOND AGGRAVATING
16 FACTOR, OF COURSE, WE JUST TALKED ABOUT, IS THE
17 SOPHISTICATION. ON EACH OF THE THREE LOAN APPLICATIONS
18 THERE WAS FALSE REPRESENTATIONS, AND ON TWO OF THEM THERE
19 WERE PHONY IRS DOCUMENTS, THE PHONY 941 REPORTS, AND THEN
20 ON THE KOG LOAN THERE WAS THAT PHONY LEDGER OF EMPLOYEES
21 SHOWING PAYMENTS BEING MADE TO, TO PROMINENT MINISTRY
22 LEADERS THAT OBVIOUSLY WERE NOT, SO THAT'S AN ADDITIONAL
23 PART OF THE GUIDELINE AGGRAVATION.

24 THE LAST PART OF THE GUIDELINE AGGRAVATION IS
25 THE MISREPRESENTATION THAT THIS WAS ACTING ON BEHALF OF A

1 CHARITABLE OR RELIGIOUS ORGANIZATION. AGAIN, FROM
2 EVERYTHING WE KNOW THERE WAS NO, EVER ANY BUSINESS BY KOG.
3 IT JUST GOT A \$207,500 PPP LOAN, AND THAT WAS THE EXTENT
4 OF IT. IT WAS JUST A CONDUIT TO OBTAIN THAT LOAN AND THEN
5 USE THE PROCEEDS.

6 WITH REGARD TO THE NONGUIDELINE AGGRAVATION, I
7 THINK IT'S AGGRAVATING THAT THIS WAS NOT JUST ONE PPP
8 LOAN, IT WAS MULTIPLE PPP LOANS. AS I INDICATED EARLIER,
9 THEY WERE INCREMENTALLY INCREASING EACH TIME HE DID IT.

10 AND THEN, FINALLY, JUST THE WHOLE NATURE OF THE
11 PROGRAM. THIS WAS RIGHT IN THE MIDDLE OF A GLOBAL
12 PANDEMIC. IT WAS A CONGRESSIONAL ATTEMPT TO PROVIDE
13 RELIEF TO STRUGGLING BUSINESSES OR BUSINESSES THAT HAD
14 BEEN REQUIRED TO SHUT DOWN. IT WASN'T DESIGNED TO, TO BE
15 USED AS A, A PERSONAL MECHANISM TO GET MONEY FROM THE
16 GOVERNMENT, AND SO THAT MAKES IT -- THAT'S NOT A GUIDELINE
17 AGGRAVATOR, BUT WE CERTAINLY THINK IT'S AN AGGRAVATOR
18 UNDER THE 3553(A) FACTORS.

19 TURNING TO MR. THOMAS' HISTORY AND CHARAC-
20 TERISTICS. YOUR HONOR, HE DOES HAVE ZERO CRIMINAL HISTORY
21 POINTS. I KNOW I'VE HAD THIS ISSUE WITH THE COURT IN
22 OTHER CASES. THE GUIDELINE CHANGE THAT'S CONTEMPLATED, OR
23 WILL TAKE EFFECT IN NOVEMBER, DOES PROVIDE FOR A TWO LEVEL
24 DEPARTURE. I WOULD ARGUE AGAINST THAT IN THIS CASE, NOT
25 ONLY BECAUSE IT'S NOT THE LAW YET, BUT ALSO BECAUSE THE

1 CONTEMPLATED GUIDELINE ALSO HAS A APPLICATION NOTE THAT
2 TALKS ABOUT UPWARD DEPARTURES, AND IT SAYS, AN UPWARD
3 DEPARTURE MAY BE WARRANTED IF AN ADJUSTMENT UNDER THE
4 GUIDELINES SUBSTANTIALLY UNDERREPRESENTS THE SERIOUSNESS
5 OF THE DEFENDANT'S CRIMINAL HISTORY, AND THEN IT GOES ON
6 TO PROVIDE EXAMPLES. WE BELIEVE THAT IT DOESN'T APPLY YET
7 CLEARLY UNDER THE LAW. WE BELIEVE THAT THIS IS NOT A CASE
8 WHERE A VARIANCE WOULD BE APPROPRIATE BECAUSE IF YOU LOOK
9 AT HIS HISTORY AND CHARACTERISTICS, WHILE HE HAS ZERO
10 CRIMINAL HISTORY POINTS, THERE ARE A NUMBER OF ARRESTS
11 THAT DEAL WITH TWO, TWO DIFFERENT AREAS THAT I WOULD LIKE
12 TO ADDRESS.

13 THE FIRST IS THEFT AND FRAUD RELATED OFFENSES.
14 IN PARAGRAPH 61 AND 63 HE HAS ARRESTS FOR BAD CHECKS. IN
15 PARAGRAPH 62 HE HAS AN ARREST FOR SOME TYPE OF CONSTRUC-
16 TION FRAUD, AND THEN IN PARAGRAPH 66 IT'S BAD CHECKS AND
17 THEFT OVER \$1,000. NOW, THOSE ARE NOT CONVICTIONS, I
18 RECOGNIZE THAT, BUT CERTAINLY THE NATURE OF THOSE ARRESTS
19 SHOWS THAT HE'S NOT A TRUE -- WHILE HE'S A TRUE ZERO POINT
20 OFFENDER, HE'S NOT SOMEBODY THAT'S NEVER HAD ANY
21 INTERACTION WITH THE LAW.

22 THE SECOND AREA THAT WE BELIEVE THAT THAT
23 REALLY UNDERSTATES HIS -- TO APPLY THAT ZERO POINT
24 OFFENDER WOULD BE IMPROPER HERE IS THE ISSUES WITH REGARD
25 TO HE AND HIS EX SPOUSE. THERE'S A THREAD THAT HAS

1 NOTHING TO DO WITH THE PPP FRAUD IN THIS CASE, BUT HE AND
2 HIS SPOUSE AFTER THEIR DISSOLUTION OF MARRIAGE, SHE
3 OBTAINED A PROTECTION ORDER, AND THE, THE TRESPASS ARREST
4 SET FORTH IN PARAGRAPH 68 AND 69, THEY RELATE TO THAT,
5 THAT DOMESTIC VIOLENCE OR PROTECTIVE ORDER THAT WAS ISSUED
6 BY THE STATE COURT.

7 THE REASON I RAISE THAT IS BECAUSE WHILE
8 MR. THOMAS WAS UNDERGOING HIS, HIS COMPETENCY EVALUATION
9 IN THIS COURT, A LETTER WAS SENT FROM THE STATE OF
10 OKLAHOMA BY MR. THOMAS, OR AT LEAST PURPORTING TO BE BY
11 MR. THOMAS, CONTACTING THE EX SPOUSE. WE DID NOT -- I
12 LOOKED INTO THIS BECAUSE IF THAT LETTER HAD BEEN SENT FROM
13 A FEDERAL FACILITY, IT WOULD HAVE BEEN A NEW FEDERAL
14 CRIME, QUITE FRANKLY, AND WE WOULD HAVE CONSIDERED PUR-
15 SUING AN INDICTMENT FOR THAT FOR VIOLATING THE PROTECTIVE
16 ORDER USING EITHER FROM THE FEDERAL PROPERTY OR IN
17 INTERSTATE COMMERCE. WE DETERMINED THAT THAT LETTER WAS
18 ACTUALLY SENT FROM A STATE HOLDING FACILITY IN THE STATE
19 OF OKLAHOMA. I GUESS BOP HAS CONTRACTS WITH, LIKE WE DO,
20 WITH A COUNTY JAIL, AND SO THE MAILING OF THAT LETTER DID
21 NOT TAKE PLACE FROM A FEDERAL FACILITY.

22 I SIMPLY RAISE THAT TO SAY THERE IS A SIGNIFI-
23 CANT PROTECTION OF THE PUBLIC STRING IN THIS CASE IN TERMS
24 OF NOT REALLY ANYTHING TO DO WITH THE PPP LOAN, BUT JUST
25 THE DOMESTIC SITUATION WITH THE WIFE, WE THINK THAT THAT'S

1 SOMETHING THAT THE SENTENCE NEEDS TO TAKE ACCOUNT OF IN
2 TERMS OF PROTECTING THE PUBLIC FROM FUTURE CRIMES.

3 WHICH THEN BRINGS ME TO THE, THE NEED THAT THE
4 SENTENCE HAS TO ADDRESS, THE NEED FOR -- TO REFLECT THE
5 SERIOUSNESS OF THE OFFENSE. WE THINK THIS IS A SERIOUS
6 OFFENSE GIVEN THE NATURE OF THIS THEFT. AGAIN, IT'S A PPP
7 LOAN THEFT.

8 WE THINK THAT THE SENTENCE NEEDS TO PROMOTE
9 BOTH GENERAL AND SPECIFIC DETERRENCE, AND, OF COURSE, IN
10 THIS -- IT'S NOT A CASE WHERE THE GOVERNMENT WOULD NOT
11 HAVE A CONCERN ABOUT SPECIFIC DETERRENCE, WE DO, WE HAVE A
12 CONCERN ABOUT SPECIFIC DETERRENCE AND THINK THAT THE
13 SENTENCE NEEDS TO ADDRESS BOTH THOSE ISSUES.

14 AND THEN THE NEED TO PROMOTE RESPECT FOR THE
15 LAW. AGAIN, THE IDEA OF SENDING A LETTER TO A SPOUSE WITH
16 AN EXISTING STATE COURT PROTECTIVE ORDER IN PLACE WOULD
17 SHOW SOME LEVEL OF DISRESPECT FOR THE LAW, AND WE THINK
18 THAT THE SENTENCE NEEDS TO REFLECT THAT.

19 IN ADDITION, I WOULD BE REMISS TO NOT RAISE THE
20 MENTAL HEALTH COMPONENT TO THIS CASE. THERE WAS A FULL-
21 BLOWN COMPETENCY HEARING. THE RESULT OF THAT WAS THAT IT
22 WAS METHAMPHETAMINE-INDUCED MENTAL HEALTH ISSUES. THE
23 PROBLEM, OF COURSE, IS WHEN MR. THOMAS IS OUT, THERE'S NO
24 REAL CONTROL OVER HIM TAKING METHAMPHETAMINE AND GETTING
25 BACK INTO THAT SAME SITUATION.

1 I READ WITH PARTICULAR INTEREST THE LETTER THAT
2 THE ACCOUNTANT WROTE. I'VE NEVER SEEN A LETTER WITH AN
3 ACCOUNTANT SAYING -- YOU KNOW, DESCRIBING THAT BEHAVIOR;
4 AND SO THOSE ARE ISSUES THAT I JUST RAISE AS CONCERNS FOR
5 PROTECTION OF THE COMMUNITY, AND WE THINK THE SENTENCE
6 NEEDS TO ADDRESS THAT.

7 FINALLY, THE ONLY OTHER SENTENCING FACTOR I
8 WOULD HIGHLIGHT IS THE NEED FOR THE SENTENCE TO ADDRESS
9 RESTITUTION. FORTUNATELY FOR MR. THOMAS HE HAD NOT SPENT
10 ALL THESE PPP LOAN PROCEEDS, SO WE WERE ABLE TO SEIZE A
11 SUBSTANTIAL AMOUNT FROM THE BANK ACCOUNT PRIOR TO THE, THE
12 INDICTMENT. IN FACT, WE ADMINISTRATIVELY FORFEITED ABOUT
13 \$161,938.01, SO THAT LEAVES A REMAINING BALANCE OF
14 \$145,761.99. WE SUBMITTED AN ORDER OF FORFEITURE FOR
15 MONEY JUDGMENT THIS MORNING, AND I APOLOGIZE FOR THE
16 TARDINESS ON THAT, YOUR HONOR, WE -- THE -- BECAUSE OF THE
17 PROCEDURAL POSTURE OF THIS CASE, THERE WERE NOT THE NORMAL
18 COURT DEADLINES THAT WERE IN PLACE THAT WE TYPICALLY
19 OPERATE OFF OF, BUT WE'VE SUBMITTED THAT ORDER OF
20 FORFEITURE AND WOULD SIMPLY REQUEST THE COURT TO ORDER
21 FORFEITURE IN THAT AMOUNT.

22 THANK YOU, YOUR HONOR.

23 THE COURT: ALL RIGHT. THANK YOU,
24 MR. HEAVENER.

25 ALL RIGHT. MS. BOLTON, EVEN THOUGH THEY WERE

1 LATE, I RECEIVED YOUR SENTENCING MEMO AND THE LETTERS THAT
2 WERE SUBMITTED, AND I'VE READ THOSE.

3 MS. BOLTON: I APOLOGIZE, YOUR HONOR.

4 I WANT -- BEFORE I HIT ON ALL OF THE THINGS
5 THAT THE GOVERNMENT HAS SAID, I DO WANT TO ADDRESS THIS
6 ISSUE OF THIS VIOLATION OF AN ORDER OF PROTECTION. FOR
7 SOME REASON THIS SEEMS TO GET EVERYBODY ALL RILED UP. IT
8 IS PROVEN HE HAD NO NOTICE THAT THAT ORDER OF PROTECTION
9 HAD BEEN REINSTATED WHEN HE WROTE HIS DAUGHTER A
10 VALENTINE'S DAY LETTER. IT WASN'T TO HIS WIFE, IT WAS TO
11 THE DAUGHTER, AND EVERYONE IS REAL WILD ABOUT THAT ONE
12 ISSUE OF ALL THE THINGS THAT ARE GOING ON RIGHT NOW. HE
13 WAS UNAWARE THAT IT HAD BEEN REISSUED. THE COURT IN
14 SULLIVAN COUNTY HAS CONFIRMED THAT ON THE 24TH I'LL BRING
15 MORE STUFF TO THEM AND THAT WILL BE DISMISSED.

16 THE TRESPASSING CHARGES RELATING TO ANY OF THIS
17 STUFF HAS ALREADY BEEN DISMISSED; AND SO I KNOW THAT'S THE
18 SMALLEST FISH IN THIS PAN WE'RE FRYING, BUT IT IS NOT A
19 SIGN OF HIS DISRESPECT FOR THE LAW, IT WAS HIM BELIEVING
20 THAT IT HAD EXPIRED, AND HE WROTE HIS DAUGHTER A
21 VALENTINE'S DAY LETTER, THAT'S IT.

22 AND THEN, NOW THAT I'VE GOT THAT OUT OF THE
23 WAY, IT IS A BIG DEAL ON WHAT HIS MENTAL STATE WAS. AND I
24 ALMOST DIDN'T SEND MR. BLACKLEY'S LETTER IN BECAUSE AS A
25 DEFENSE ATTORNEY I READ THAT, AND I PROBABLY HAD THE SAME

1 REACTION THAT THE GOVERNMENT HAD; AND I SPOKE WITH HIS
2 PARENTS, LIKE I DON'T LIKE THAT; BUT IT'S ALSO, IF YOU'LL
3 LOOK AT THE TIMING OF IT, IT'S RELEVANT IN WHAT HIS STATE
4 OF MIND WAS BACK THEN. WE'RE NOT MAKING EXCUSES FOR IT,
5 BUT IT'S VERY IMPORTANT TO UNDERSTAND WHAT HE WAS DOING
6 WITH AN ALREADY FRAGILE MIND FOR WHATEVER REASON IN THE
7 EARLY PARTS OF 2020. I KNOW A LOT OF VERY SMART, DECENT
8 PEOPLE THAT MADE A LOT OF STUPID DECISIONS DURING THAT
9 TIME FOR A LOT OF DIFFERENT REASONS; BUT IF YOUR MARRIAGE
10 IS FALLING APART, YOUR BUSINESS IS FALLING APART AND YOUR
11 DAUGHTER HAS GOT -- HAD JUST WENT THROUGH THIS TRAUMATIC
12 SURGERY, THERE WAS A LOT OF THINGS GOING ON.

13 HIS INITIAL PPP LOAN HAD -- WAS GOOD INTENDED,
14 AND IT JUST WENT OFF THE RAILS, AND THEY WERE ALL DONE IN
15 A SHORT PERIOD OF TIME; BUT I DON'T WANT THE COURT TO NOT
16 PAY ATTENTION TO WHAT HIS MENTAL STATE OF MIND WAS, IT IS
17 OBVIOUS IT WAS BAD. IT WAS OBVIOUS HE WASN'T MAKING GREAT
18 DECISIONS; AND I KNOW WE TALK ABOUT SOPHISTICATED SCHEMES,
19 ANYBODY WITH A FINGER COULD HAVE APPLIED FOR A PPP LOAN
20 FOR BETTER OR WORSE DURING THAT TIME; BUT THAT'S
21 IMPORTANT. I THINK THAT'S VERY IMPORTANT.

22 AND EVEN THOUGH HE DOES HAVE A MINIMAL CRIMINAL
23 HISTORY AND ZERO POINTS, THE ONES THAT THE GOVERNMENT
24 POINTED OUT WERE FROM 2004 AND 2006, AND THEY ARE CRIMES
25 OF DISHONESTY OR WHATNOT, BUT IT WAS A LONG TIME AGO, AND

1 HE WAS GIVEN NO POINTS ON THEM, SO I THINK THAT HIS
2 MINIMAL CRIMINAL HISTORY IS VERY, VERY IMPORTANT
3 REGARDLESS OF WHAT THEY WERE FOR.

4 FOR THE MOST PART HE LIVED A STRAIGHT AND
5 NARROW LIFE. HE WORKED FOR HIS FATHER, HE WORKED FOR
6 HIMSELF. THIS WAS AN ABNORMAL THING THAT HAPPENED TO HIM,
7 AND IT WAS AN ABNORMAL THING THAT HE DID, AND HE HAS COME
8 TO TERMS WITH IT; AND, YEAH, I'M NOT GOING -- WE'RE NOT
9 GOING TO GET UPSET ABOUT ONE POINT THAT THE GOVERNMENT
10 DIDN'T REQUEST, BUT IT IS WHAT IT IS. IT WAS ALL
11 HAPPENING BEFORE I GOT INVOLVED IN THIS CASE; BUT RIGHT
12 NOW MR. THOMAS STANDS HERE OR SITS HERE, AND HE IS SEEKING
13 FOR A SENTENCE AT THE VERY BOTTOM OF THE GUIDELINE RANGE.
14 THERE'S NO REASON FOR HIM TO BE IN THAT LONG. HE IS
15 SMART. HE HAS WORKED WHILE HE'S BEEN IN JAIL. HE'S A
16 MODEL STUDENT, OR, YEAH, MODEL PRISONER. HE'S EARNED
17 MONEY WHILE HE'S BEEN IN THERE, OVER \$1,400 HE'S ABLE TO
18 PUT TOWARDS WHATEVER HE OWES. HE WILL BE A BETTER PERSON
19 WHEN HE GETS OUT, AND HE UNDERSTANDS THAT.

20 WHEN I FIRST MET HIM, I THINK I WAS THE THIRD
21 ATTORNEY MAYBE, WHEN I FIRST MET HIM, THIS IS A CASE WHERE
22 YOU JUST KIND OF, UGH, YOU KNOW, I'M THE THIRD ATTORNEY.
23 EVEN FROM THE TIME I MET HIM UNTIL NOW HE'S MORE CLEAR.
24 THE LONGER HE IS STABILIZED WITH HIS MEDICATION, THE
25 LONGER THAT HE IS NO LONGER ON METHAMPHETAMINE OR SELF

1 MEDICATING IN ANY WAY, THE REAL CHAD THOMAS HAS COME BACK.
2 HIS PARENTS HAVE NOTICED IT IN PHONE CALLS. I'VE NOTICED
3 IT, AND I BARELY KNOW HIM. THIS IS NOT THE FELLOW TO
4 THROW THE BOOK AT OVER A PPP LOAN. IT IS SERIOUS, WITHOUT
5 A DOUBT, BUT A LOT OF REALLY GOOD INTENDED PEOPLE MESS
6 THOSE UP THEMSELVES; NOT TO THIS LEVEL, OF COURSE, BUT
7 THEY DID. AND IT IS GOOD THAT THE GOVERNMENT WAS ABLE TO
8 RECAPTURE A GREAT DEAL OF THE MONEY; BUT, YOUR HONOR,
9 WE'RE JUST SEEKING, AGAIN, A SENTENCE AT THE VERY BOTTOM
10 OF THE GUIDELINES.

11 THE COURT: YOU SEEM TO DRAW SOME DISTINCTION
12 BETWEEN THE FIRST PPP LOAN AND THE OTHERS, WILL YOU
13 CLARIFY THAT TO ME?

14 MS. BOLTON: ONLY, ONLY BECAUSE THE OTHER ONE
15 IS KINGDOM OF GOD, AND IT'S GOT -- IT WAS TRULY CREATED --

16 THE COURT: SO IT WAS COMPLETELY A SHAM?

17 MS. BOLTON: YES.

18 THE COURT: AND THE FIRST ONE WAS AN ACTUAL
19 CORPORATION THAT HAD BEEN USED FOR BUSINESS PURPOSES?

20 MS. BOLTON: YES.

21 THE COURT: ALL RIGHT, AND WHAT ABOUT THE
22 MIDDLE ONE, IT WAS A SHAM TOO?

23 MS. BOLTON: I BELIEVE THAT ONE ALSO HAD AN
24 INCORPORATED BUSINESS; RIGHT? IT DID.

25 MR. HEAVENER: I BELIEVE ONE OF THEM WAS A SOLE

1 PROPRIETORSHIP, YOUR HONOR. I THINK THE TRIANGLE GROUP
2 MAY HAVE BEEN.

3 THE COURT: THE TRIANGLE WAS A SOLE PROPRIETOR,
4 ALL RIGHT.

5 ALL RIGHT. ANYTHING ELSE?

6 MS. BOLTON: NO.

7 THE COURT: MR. THOMAS, COME UP TO THE PODIUM,
8 PLEASE, WITH YOUR ATTORNEY.

9 MR. THOMAS, IS THERE ANYTHING YOU WISH TO SAY
10 TO THE COURT TODAY BEFORE SENTENCE IS IMPOSED?

11 THE DEFENDANT: I WAS GOING THROUGH, I
12 APOLOGIZE, I WAS GOING THROUGH A LOT OF MENTAL STRESS, AND
13 MY DAUGHTER, SHE FELLEEN OFF REALLY ILL WITH HER BACK BACK
14 IN 2019. MY NOW EXWIFE WAS TRYING TO DO SOME OF THE
15 ACCOUNTING STUFF, WE HAD AN ACCOUNTANT, BUT OUR
16 PAPERWORK -- I HAD STARTED LETTING, I HAD 15 OR 20
17 PROJECTS, THEY STARTED TAPERING DOWN, AND WE JUST COULDN'T
18 PULL TOGETHER ALL THE PAPERWORK AND FINANCIAL STUFF, AND
19 I'M SORRY.

20 THE COURT: MR. THOMAS, IS IT GOING TO HAPPEN
21 AGAIN IF YOUR DAUGHTER HAS ANOTHER ILLNESS OR IF A
22 BUSINESS GOES INTO FAILURE?

23 THE DEFENDANT: NO, SIR.

24 THE COURT: WHY NOT? HOW CAN YOU ASSURE ME
25 THAT IT'S NOT?

1 THE DEFENDANT: I'M A MUCH BETTER PERSON. I
2 MEAN, I'VE WENT THROUGH, HAD MULTIPLE BUSINESSES AND
3 DIFFERENT TRAGEDIES, DIFFERENT THINGS. IT'S COMPLETELY
4 OUT OF CHARACTER FOR ME FOR WHAT HAD HAPPENED. BETWEEN
5 COVID, MY DAUGHTER AND JUST THE STRESS FROM EVERYTHING, I
6 WAS A BASKET CASE.

7 THE COURT: WELL, MY FEAR IS, MR. THOMAS, THAT
8 EVERYBODY HAS BAD CIRCUMSTANCES IN THEIR LIFE, I MEAN,
9 BUSINESSES FAIL --

10 THE DEFENDANT: SURE.

11 THE COURT: -- PEOPLE CLOSE TO YOU GET SICK,
12 ALL KINDS OF THINGS HAPPEN, SOMEBODY CLOSE TO YOU DIES,
13 ANY NUMBER OF THINGS, AND WHAT I'M CONCERNED ABOUT IS THAT
14 IF THAT'S WHAT CAUSED THIS BEHAVIOR, THAT THE NEXT TIME
15 YOUR CIRCUMSTANCES BECOME DIFFICULT, YOU WILL DO SOMETHING
16 SIMILAR, AND THAT'S WHAT I'M LOOKING FOR ASSURANCE THAT
17 YOU WILL NOT DO.

18 THE DEFENDANT: I WILL NOT.

19 THE COURT: WELL, BUT I NEED MORE THAN JUST
20 YOUR STATEMENT.

21 THE DEFENDANT: I UNDERSTAND HOW TO HANDLE THE
22 MENTAL CRISIS AND STUFF THAT I HAD WENT THROUGH.

23 THE COURT: AND HOW WOULD YOU HANDLE THEM
24 DIFFERENTLY?

25 THE DEFENDANT: WELL, I MEAN, BETWEEN PRAYER

1 AND GOD AND, AND JUST BEING ABLE TO COPE AND DEAL WITH
2 THINGS A LOT BETTER. I'VE BEEN WORKING OUT AND STUFF. I
3 HAD LOST MY HEALTH BACK IN 2012 TO 2018, A LOT OF THINGS
4 HAD HAPPENED THAT LED UP TO FALLING APART.

5 THE COURT: MR. THOMAS, WITH ALL DUE RESPECT,
6 THOSE ARE NOTHING MORE THAN EXCUSES. THE THING THAT'S
7 MISSING FROM ALL OF THAT IS THE ACCEPTANCE OF YOUR ROLE IN
8 THIS OFFENSE. I DON'T DISCOUNT THE POWER OF GOD OR
9 ANYTHING OF THAT SORT --

10 THE DEFENDANT: SURE.

11 THE COURT: -- BUT GOD DIDN'T DO THIS.

12 THE DEFENDANT: I TAKE FULL RESPONSIBILITY,
13 YOUR HONOR. IT WAS A HUGE MISTAKE.

14 THE COURT: THERE'S NO QUESTION THAT IT WAS A
15 HUGE MISTAKE.

16 DID YOU READ YOUR ACCOUNTANT'S LETTER
17 CAREFULLY?

18 THE DEFENDANT: MY ATTORNEY READ IT TO ME.

19 THE COURT: DO YOU REALIZE THAT HE SAID IN THAT
20 LETTER THAT HE WAS AFRAID TO GO DEEPER INTO YOUR PROPERTY
21 WITH YOU BECAUSE -- OR DEEPER INTO THE PROPERTY WHERE HE
22 WAS TALKING TO YOU BECAUSE HE WAS AFRAID FOR HIS OWN
23 SAFETY, THAT HE THOUGHT YOU WERE DANGEROUS, THAT YOU
24 REPRESENTED A THREAT TO HIM?

25 THE DEFENDANT: YES, SIR.

1 THE COURT: WAS IT THAT BAD?

2 THE DEFENDANT: I WAS STRESSED OUT JUST TRYING
3 TO PULL EVERYTHING TOGETHER. I MEAN, I WAS IN -- I WAS
4 STRESSED OUT. EVERYTHING FELL APART.

5 THE COURT: WHAT ABOUT THE METHAMPHETAMINE USE?
6 I READ THE BOP'S --

7 THE DEFENDANT: I'M DONE WITH THAT.

8 THE COURT: WELL, WE CAN'T TALK AT THE SAME
9 TIME.

10 THE DEFENDANT: SORRY.

11 THE COURT: I READ THE BOP'S EVALUATION REPORT,
12 THEY THOUGHT THAT ALL OF THIS WAS METHAMPHETAMINE INDUCED.
13 SO WHAT STARTED THE METHAMPHETAMINE USE?

14 THE DEFENDANT: USE, JUST COPING. I MEAN, I,
15 I'M TRYING TO THINK BACK. I USED, STARTED UP USING IT TO
16 STUDY WITH, AND THEN IT JUST LED TO MORE AND MORE. I'M
17 DONE WITH IT FOR SURE.

18 THE COURT: WHAT DO YOU MEAN YOU USED IT TO
19 STUDY WITH, TO KEEP YOU AWAKE?

20 THE DEFENDANT: YEAH. I WAS READING AND
21 STUDYING A LOT AT THE TIME, 2020, END OF 2019.

22 THE COURT: WHAT KIND OF READING AND STUDYING?

23 THE DEFENDANT: SCRIPTURAL STUFF, MEDICAL
24 STUFF, A LOT OF THINGS ABOUT MY DAUGHTER'S ILLNESS AND
25 THINGS, TOWARDS THE END OF 2019, 2020.

1 THE COURT: AND WHERE WERE YOU GETTING
2 METHAMPHETAMINE AT THE TIME?

3 THE DEFENDANT: SOME OF IT WAS PHENTERMINE AND
4 ADDERAL.

5 THE COURT: I DIDN'T ASK YOU ABOUT THAT, I SAID
6 WHERE WERE YOU GETTING METHAMPHETAMINE?

7 THE DEFENDANT: I THINK SOMEBODY THAT HAD
8 WORKED FOR ME PREVIOUSLY.

9 THE COURT: YOU THINK THAT?

10 THE DEFENDANT: YES, SIR.

11 THE COURT: AND HOW WERE YOU PAYING FOR IT? I
12 KNOW WHAT METHAMPHETAMINE COSTS, HOW WERE YOU PAYING FOR
13 IT?

14 THE DEFENDANT: CASH.

15 THE COURT: WHAT WAS THE SOURCE OF THE CASH?

16 THE DEFENDANT: MONEY THAT I HAD COMING IN. I
17 HAD SOLD SOME TOOLS AND DIFFERENT THINGS THAT I HAD HAD.

18 THE COURT: DID THAT CONTRIBUTE TO YOUR
19 BUSINESS FAILURE?

20 THE DEFENDANT: YES.

21 THE COURT: IT STANDS TO REASON THAT IT DID.
22 SO YOU BEGAN TO USE METH, YOUR BUSINESS FAILED, YOUR
23 DAUGHTER GOT SICK, COVID HAPPENED, AND ALL OF THAT WAS
24 SORT OF A PERFECT STORM THAT CAUSED YOU TO COMMIT THESE
25 OFFENSES, IS THAT WHAT YOU'RE TELLING ME?

1 THE DEFENDANT: YES.

2 THE COURT: I SAW IN THAT REPORT THAT YOU WERE
3 PRESCRIBED MENTAL HEALTH MEDICATIONS AT ONE TIME, BUT YOU,
4 YOU WOULD NOT STAY ON THEM. WHY NOT?

5 THE DEFENDANT: I WAS HOMELESS AND I COULDN'T
6 AFFORD THEM AFTER -- WHEN THEY FROZE OUR BANK ACCOUNTS, I
7 BECAME HOMELESS, PROBABLY ABOUT SIX MONTHS, EIGHT MONTHS
8 OR SO AFTER.

9 THE COURT: AND WHY DID THEY FREEZE YOUR BANK
10 ACCOUNTS, BECAUSE OF THESE FRAUDULENT LOANS?

11 THE DEFENDANT: YEAH. THE BANK FROZE THE
12 ACCOUNTS.

13 THE COURT: YOUR MOTHER'S LETTER INDICATED THAT
14 THERE WAS, THERE WERE SUICIDAL TENDENCIES IN THE PAST,
15 THAT THERE WAS SCHIZOPHRENIA, THERE WAS ANXIETY, BIPOLAR
16 DISORDER, HAVE YOU BEEN DIAGNOSED WITH ALL OF THOSE?

17 THE DEFENDANT: AT DIFFERENT POINTS; BUT SINCE
18 THE FT. WORTH, TEXAS, I'VE BEEN CLEARED OF ALL THAT. I'VE
19 NOT BEEN ON ANY MEDICATIONS AND BEEN DOING WELL.

20 THE COURT: ARE YOU TALKING ABOUT THE
21 EVALUATION THAT WAS DONE IN FT. WORTH?

22 THE DEFENDANT: YES, SIR.

23 THE COURT: WHAT DO YOU MEAN IT CLEARED YOU OF
24 ALL THAT?

25 THE DEFENDANT: SINCE THEN I'VE NOT BEEN TAKING

1 ANY -- BACK IN 2020 WHEN I WENT TO, I THINK IT WAS
2 WOODRIDGE THE FIRST TIME, THEY HAD MISDIAGNOSED ME, GAVE
3 ME SOME MEDICATIONS, AND THEN -- IT SHOWS THAT IN THE
4 MEDICAL REPORTS; AND THEN WHEN I WENT THE SECOND TIME, I
5 HAD TALKED TO THAT DOCTOR, AND THEY CHANGED THE
6 MEDICATIONS; AND PART OF -- I WAS HAVING ISSUES CLEARLY
7 THINKING. MY DAUGHTER HAD SURGERY IN APRIL, SO FROM APRIL
8 TO OCTOBER, NOVEMBER, I THINK IS WHEN IT WAS, THEY GIVE ME
9 SOME KIND OF NEW SHOT OR SOMETHING LIKE THAT. THERE WAS
10 A LOT OF UPS AND DOWNS AND EVERYTHING IN THAT TIME PERIOD
11 WITH THE MEDICATION AND TRYING TO GET THOSE THINGS RIGHT.

12 THE COURT: WELL, PART OF MY POINT IS THIS, I
13 THINK EVERY ONE OF THOSE CONDITIONS IS TREATABLE --

14 THE DEFENDANT: MM-HMM.

15 THE COURT: -- SOME WITH MEDICATIONS, BUT THE
16 MEDICATIONS DON'T DO A THING IF YOU DON'T TAKE THE
17 MEDICATION; AND SO IT SOUNDS LIKE WHAT YOU'RE TELLING ME,
18 MR. THOMAS, IS THAT YOU'VE HAD THOSE CONDITIONS, BUT YOU
19 DON'T THINK YOU NEED ANY MEDICATION AT THE MOMENT, IS THAT
20 WHAT YOU'RE SAYING?

21 THE DEFENDANT: NO, I HAD TAKEN THE MEDICA-
22 TIONS. IT WAS GETTING THEM, PAYING FOR THEM TO GET THEM
23 AFTER THE 30 DAY WHEN IT FIRST WAS PRESCRIBED. MOSTLY IT
24 WAS A FINANCIAL PROBLEM, NOT AN ACT IN TAKING THEM.

25 THE COURT: NOW, I REALIZE THAT THERE IS A

1 PENDING CRIMINAL CHARGE RELATED TO THAT CASE IN WISE
2 COUNTY, VIRGINIA WITH A DATE OF ARREST OF DECEMBER 17,
3 2021, SO I'M NOT GOING TO ASK YOU TO SAY ANYTHING THAT
4 MIGHT INCRIMINATE YOU IN THAT CASE, BUT IS THE ALLEGATION
5 THERE THAT YOU WERE ON DRUGS OR THAT YOU WERE ON ALCOHOL
6 OR SOMETHING ELSE?

7 MS. BOLTON: ONE MOMENT, YOUR HONOR.

8 THE COURT: IN OTHER WORDS, WHAT WERE YOU
9 ACCUSED OF BEING UNDER THE INFLUENCE OF?

10 THE DEFENDANT: I DON'T THINK IT STATED
11 ANYTHING. THEY -- THERE WAS NO BLOOD ALCOHOL TEST OR
12 ANYTHING DONE.

13 THE COURT: WELL, IT SPECIFICALLY SAYS, "UNDER
14 THE INFLUENCE OF DRUGS", SO THAT SUGGESTS TO ME THAT IT
15 WAS NOT ALCOHOL.

16 THE DEFENDANT: WELL, I WAS PARKED ON THE, ON A
17 STRIP JOB FOR THREE DAYS, AND MY DAD HAD CALLED, SAID SOME
18 ERRATIC BEHAVIOR. I ACTUALLY WAS HYPOTHERMIC THE MORNING
19 OF, AND HE HAD COME BOOSTED THE TRUCK OFF, AND THEN I HAD
20 NOT MADE IT HOME BY LIKE ONE OR TWO O'CLOCK, AND HE HAD
21 COME BACK UP THERE, AND THEN I -- AFTER THAT, I REMEMBER
22 THAT, AND I REMEMBER THEN, BUT I DON'T REMEMBER -- I
23 WASN'T USING ANY DRUGS AT THAT TIME.

24 THE COURT: AND THEN YOU --

25 THE DEFENDANT: I WAS HYPOTHERMIC THAT MORNING,

1 IT WAS LIKE 20 DEGREES AND THE TRUCK STARTER DIDN'T
2 WORK.

3 THE COURT: AND THEN ACCORDING TO THE
4 PRESENTENCE REPORT THERE WERE TWO OCCASIONS WHEN YOU DID
5 NOT APPEAR, AND YOU'VE NOW BEEN CHARGED WITH BOTH FAILURES
6 TO APPEAR; IS THAT RIGHT?

7 THE DEFENDANT: WHAT CASE IS THAT ON?

8 MS. BOLTON: I BELIEVE HE WAS IN CUSTODY DURING
9 THAT TIME.

10 THE DEFENDANT: YEAH.

11 THE COURT: IN FEBRUARY OF 2022 AND MAY OF
12 2022.

13 THE DEFENDANT: I WAS IN CUSTODY IN -- WAIT,
14 WHAT'S THAT?

15 (OFF-THE-RECORD DISCUSSION BETWEEN THE DEFENDANT AND
16 HIS ATTORNEY)

17 THE DEFENDANT: I'M NOT SURE.

18 THE COURT: MR. THOMAS, ASIDE AND APART FROM
19 WHAT THE BOP EVALUATION SAYS AND WHAT YOUR MOTHER'S LETTER
20 SAID, IT IS OBVIOUS TO ME THAT YOU ARE SUFFERING FROM SOME
21 SORT OF EMOTIONAL PROBLEMS AND/OR MENTAL ILLNESS, AND IT
22 IS ALSO APPARENT TO ME THAT YOU HAVE YOUR HEAD IN THE SAND
23 WHEN IT COMES TO THAT, AND I WILL TELL YOU RIGHT NOW THAT
24 AS LONG AS YOU HAVE UNTREATED MENTAL CONDITIONS YOU ARE AT
25 HIGH RISK TO COMMIT CRIMES.

1 IT ALSO APPEARS TO ME THAT YOU ARE IN DENIAL
2 ABOUT THE COMMISSION OF THESE OFFENSES WHICH BROUGHT YOU
3 HERE, THESE FRAUDULENT PPP LOANS. CIRCUMSTANCES DON'T
4 CAUSE PEOPLE TO COMMIT CRIMINAL ACTS. CIRCUMSTANCES MAY
5 EXPLAIN WHAT WAS GOING ON AT THE TIME, BUT THOSE CRIMINAL
6 ACTS WERE CAUSED, AS YOU HAVE ADMITTED, BY YOUR WILLFUL
7 DECISIONS TO DO THOSE THINGS. AS LONG AS YOU ARE IN
8 DENIAL ABOUT THAT, YOU ARE LIKEWISE AN INCREASED RISK TO
9 COMMIT OTHER CRIMES.

10 YOUR MOTHER SAID IN HER LETTER THAT NONE OF
11 THESE CIRCUMSTANCES JUSTIFY WHAT YOU DID, AND I AGREE
12 FULLY WITH HER, BUT IT SEEMS TO ME THAT YOU DON'T SHARE
13 THAT ATTITUDE.

14 MR. THOMAS, LET ME TAKE A FEW MINUTES TO TALK
15 TO YOU ABOUT WHAT THE LAW REQUIRES ME TO DO HERE TODAY.

16 TITLE 18, UNITED STATES CODE, SECTION 3553(A)
17 REQUIRES ME TO IMPOSE A SENTENCE WHICH IS SUFFICIENT BUT
18 NOT GREATER THAN NECESSARY TO COMPLY WITH THE PURPOSES OF
19 SENTENCING ESTABLISHED BY THE CONGRESS AND IN MAKING THAT
20 DETERMINATION ABOUT WHAT SENTENCE TO IMPOSE HAS GIVEN ME A
21 NUMBER OF FACTORS TO CONSIDER.

22 THE FIRST ONE IS THE ADVISORY GUIDELINE RANGE,
23 A RANGE THAT WE HAVE ESTABLISHED AT 37 TO 46 MONTHS.
24 HIGHER BECAUSE THE GOVERNMENT'S OBJECTION TO THE ONE
25 POINT, ADDITIONAL POINT FOR ACCEPTANCE OF RESPONSIBILITY

1 HAS BEEN SUSTAINED, A ONE POINT INCREASE IN THE GUIDELINE
2 RANGE BROUGHT ABOUT BY YOUR ACTIONS, FILING OF PRO SE
3 MOTIONS, ATTEMPTS TO WITHDRAW A GUILTY PLEA, REQUEST TO
4 REPRESENT YOURSELF, ALL OF WHICH HAS NOW BEEN WITHDRAWN.

5 THE GUIDELINE RANGE IS ADVISORY. I DON'T HAVE
6 TO SENTENCE YOU WITHIN THAT GUIDELINE RANGE. I HAVE
7 CONSIDERABLE DISCRETION TO SENTENCE YOU EITHER ABOVE OR
8 BELOW THAT GUIDELINE RANGE; BUT THE GUIDELINE RANGE IS
9 OFTEN IMPORTANT BECAUSE IT GENERALLY REFLECTS A PROPER
10 CONSIDERATION OF ALL THOSE FACTORS LISTED IN 3553(A) FOR
11 THIS REASON, THAT GUIDELINE RANGE COMES FROM THE UNITED
12 STATES SENTENCING COMMISSION, WHICH WAS ESTABLISHED BY THE
13 CONGRESS AS PART OF THE SENTENCING REFORM ACT OF 1984.
14 CONGRESS SPECIFICALLY TOLD THE SENTENCING COMMISSION TO
15 ESTABLISH THESE GUIDELINE RANGES, BUT TO DO SO ONLY AFTER
16 CONSIDERATION OF ALL THE 3553(A) FACTORS. EVERYTHING IN
17 MY EXPERIENCE, MR. THOMAS, TELLS ME THEY'VE DONE EXACTLY
18 THAT, AND I'VE DEALT WITH THESE GUIDELINES SINCE THE DAY
19 THEY BECAME EFFECTIVE. SO THAT'S WHERE I START, WITH A
20 GUIDELINE RANGE THAT APPEARS TO REFLECT, IN MY VIEW, ALL
21 THE 3553(A) FACTORS.

22 THERE IS A SECOND REASON WHY THE GUIDELINE
23 RANGE IS IMPORTANT. IT RELATES TO ANOTHER OF THE 3553(A)
24 FACTORS, (A)(6), WHICH DIRECTS THIS COURT TO CONSIDER THE
25 NEED TO AVOID UNWARRANTED SENTENCE DISPARITIES AMONG

1 DEFENDANTS WITH SIMILAR RECORDS WHO HAVE BEEN FOUND GUILTY
2 OF SIMILAR CONDUCT. IN OTHER WORDS, TO TRY TO ACHIEVE
3 UNIFORMITY IN SENTENCING. AND UNIFORMITY IN SENTENCING IS
4 ONE OF THOSE GOALS WITH WHICH I THINK A VAST MAJORITY OF
5 PEOPLE AGREE. IT JUST SIMPLY MEANS THAT PEOPLE WHO HAVE
6 DONE THE SAME THING, WHO HAVE THE SAME OR SIMILAR CRIMINAL
7 HISTORY OUGHT TO RECEIVE ROUGHLY THE SAME SENTENCE. IT'S
8 A MATTER OF BASIC FAIRNESS IN MY VIEW; AND EVEN IF
9 CONGRESS DIDN'T TELL ME THAT THAT'S A CONSIDERATION IN
10 SENTENCING, COMMON SENSE WOULD BECAUSE THERE ARE PLENTY OF
11 STUDIES THAT INDICATE THAT THE BIGGEST SOURCE OF ANGER
12 AMONG INMATES IN PRISON TODAY IS THE FEELING THAT THEY
13 WERE TREATED MORE HARSHLY THAN SOMEBODY WHO DID THE VERY
14 SAME THING UNDER SIMILAR CIRCUMSTANCES AND WHO HAD THE
15 SAME KIND OF CRIMINAL RECORD. SO CLEARLY IMPOSING A
16 SENTENCE WITHIN A PROPERLY CALCULATED ADVISORY GUIDELINE
17 RANGE PROMOTES THAT.

18 NOW, BEYOND THAT THERE ARE A NUMBER OF OTHER
19 FACTORS, AND I HAVE TO CONSIDER THOSE FACTORS AND
20 ULTIMATELY MAKE A DETERMINATION ABOUT WHETHER OR NOT THERE
21 IS ONE OR MORE OF THOSE FACTORS OR SEVERAL FACTORS IN
22 COMBINATION WHICH ARE NOT ADEQUATELY TAKEN INTO ACCOUNT IN
23 THE GUIDELINE RANGE.

24 MORE SPECIFICALLY HERE, SINCE NEITHER PARTY
25 REALLY ASKS ME TO SENTENCE OUTSIDE THE GUIDELINE RANGE,

1 WITH ONE POSSIBLE EXCEPTION, MAYBE THOSE 3553(A) FACTORS
2 ARE NOT AS IMPORTANT EXCEPT THAT I STILL CONSIDER THOSE
3 FACTORS IN DETERMINING WHERE WITHIN A GUIDELINE RANGE TO
4 SENTENCE. SO I'M REQUIRED TO CONSIDER THESE FACTORS
5 EITHER WAY.

6 LET ME GO BACK TO THE GUIDELINE RANGE FOR A
7 MINUTE. MR. HEAVENER, HAS ACKNOWLEDGED THAT THERE IS A
8 PROPOSED AMENDMENT TO THE GUIDELINES WHICH WILL TAKE
9 EFFECT AT THE FIRST OF NOVEMBER OF THIS YEAR UNLESS
10 CONGRESS SAYS OTHERWISE. CONGRESS IS NOT GOING TO SAY
11 OTHERWISE. CONGRESS CAN'T AGREE ON WHAT DAY OF THE WEEK
12 IT IS, MUCH LESS DECIDE ON SOMETHING THAT SERIOUS.

13 SO THE GUIDELINE RANGE AS FAR AS I AM CONCERNED
14 HAS A VERY HIGH PROBABILITY OF BECOMING EFFECTIVE, OR THE
15 GUIDELINE CHANGE HAS A VERY HIGH PROBABILITY OF BECOMING
16 EFFECTIVE NOVEMBER 1. IT'S NOT IN EFFECT YET. AND I HAVE
17 IN CASES RECENTLY GONE AHEAD AND APPLIED THE TWO LEVEL
18 REDUCTION IN GUIDELINE RANGE EVEN THOUGH IT'S NOT
19 EFFECTIVE BECAUSE WHAT THE SENTENCING COMMISSION HAS DONE
20 IF IT'S NOT, NOT ADOPTED IS STILL MAKE A POLICY STATEMENT
21 ABOUT THE ZERO POINT OFFENDERS AND THAT THERE OUGHT TO BE
22 A REDUCTION IN GUIDELINE RANGE.

23 THE GOVERNMENT SUGGESTS THAT I SHOULD NOT DO
24 THAT IN THIS CASE. THERE IS DISCUSSION ABOUT WHETHER OR
25 NOT THE SENTENCING COMMISSION WILL MAKE THAT AMENDMENT

1 RETROACTIVE, WHICH MEANS THAT IF THEY DO, DEFENDANTS WHO
2 HAVE BEEN SENTENCED WITH, WITHOUT THAT TWO LEVEL REDUCTION
3 CAN COME BACK TO COURT AND SEEK A REDUCTION IN SENTENCE
4 BASED ON THAT. THAT IS SOMEWHAT INEFFICIENT SINCE WE ARE
5 SO CLOSE TO NOVEMBER. ON THE OTHER HAND, THE GOVERNMENT
6 ARGUES THAT A VARIANCE BASED ON THAT MAY NOT BE
7 APPROPRIATE HERE, NOT JUST BECAUSE IT'S NOT LAW YET, BUT
8 BECAUSE THE GUIDELINE ALSO REFERENCES THAT IF THE
9 REDUCTION IS APPLIED, THERE STILL MAY BE A BASIS FOR AN
10 UPWARD DEPARTURE IN THE CASE.

11 NOW, YOU DON'T HAVE SIGNIFICANT CRIMINAL
12 HISTORY HERE. WHAT YOU HAVE IS A VERY SUBSTANTIAL RECORD
13 OF OFFENSES CHARGED AND/OR DISMISSED, AND THERE ARE
14 NUMEROUS OF THOSE. ONE, TWO, THREE, FOUR, FIVE, SIX,
15 SEVEN, EIGHT, NINE, TEN OF THEM. ORDINARILY THE COURT
16 DOES NOT CONSIDER DISMISSED CHARGES ABSENT PROOF BY A
17 PREPONDERANCE THAT YOU HAVE IN FACT COMMITTED THOSE
18 OFFENSES, AND I DON'T HAVE THAT PROOF HERE.

19 THE SAME IS TRUE OF PENDING CHARGES. UNLESS I
20 HAVE PROOF BY A PREPONDERANCE THAT YOU'VE ACTUALLY
21 COMMITTED THE OFFENSE THAT YOU'RE CHARGED WITH, IT'S NOT
22 APPROPRIATE TO CONSIDER IT EITHER.

23 THE GOVERNMENT'S ARGUMENT THOUGH IS THAT IT'S
24 ESTABLISHED A PATTERN, A PATTERN OF CONDUCT FOR WHICH
25 YOU'VE BEEN CHARGED, EVEN THOUGH THOSE CHARGES ULTIMATELY

1 FOR ONE REASON OR ANOTHER HAVE BEEN DISMISSED; BUT
2 TECHNICALLY YOU WILL QUALIFY UNDER THE NEW GUIDELINE IF IT
3 TAKES EFFECT FOR A TWO LEVEL REDUCTION.

4 I STILL, EVEN IF APPLIED RETROACTIVELY OR
5 APPLIED NOW, I STILL HAVE DISCRETION THOUGH NOT TO
6 SENTENCE YOU WITHIN THE RANGE THAT RESULTS BECAUSE
7 ULTIMATELY IT'S ALL ADVISORY AND ALL I HAVE TO DO IS
8 DETERMINE A SENTENCE THAT'S SUFFICIENT BUT NOT GREATER
9 THAN NECESSARY TAKING INTO ACCOUNT THE GUIDELINE RANGE.

10 IN THIS CASE, MR. THOMAS, I'M NOT GOING TO GO
11 AHEAD AND PROSPECTIVELY APPLY THE GUIDELINE CHANGE. IF
12 THE SENTENCING COMMISSION'S PROPOSED AMENDMENT TAKES
13 EFFECT IN NOVEMBER AND IF THEY MAKE IT RETROACTIVE, AND
14 THEY'RE CONSIDERING THAT ISSUE ON THEIR DOCKET, THIS
15 WEEK'S DOCKET, THEN YOU CAN FILE A MOTION TO ASK ME TO
16 REDUCE THE GUIDELINE RANGE, AND I'LL DECIDE AT THAT TIME
17 WHETHER OR NOT I OUGHT TO DO SO, WHETHER OR NOT I OUGHT TO
18 GRANT SOME VARIANCE BASED ON THAT; BUT GIVE ME AN
19 OPPORTUNITY, FRANKLY, TO SEE HOW THINGS PROGRESS FROM NOW
20 UNTIL THEN.

21 THE GOVERNMENT ARGUES THAT THIS IS A SERIOUS
22 OFFENSE, I AGREE. ANY TIME THIS AMOUNT OF MONEY IS STOLEN
23 FROM THE TAXPAYERS IT IS A SERIOUS OFFENSE. THIS WAS A
24 PROGRAM DESIGNED BY CONGRESS TO HELP PEOPLE WHO MET
25 CERTAIN CRITERIA DURING A NATIONAL EMERGENCY. YOU DIDN'T

1 MEET THOSE CRITERIA. YOU SUBMITTED FRAUDULENT APPLICA-
2 TIONS BASED ON SHAM, AT LEAST ONE SHAM CORPORATION IN
3 ORDER TO GET THOSE FUNDS. TAXPAYERS END UP FOOTING THE
4 BILL HERE FOR WHATEVER OF IT YOU CANNOT REPAY.

5 IN MY VIEW ANY KIND OF THEFT OFFENSE IS A
6 SERIOUS OFFENSE BECAUSE THEFT OFFENSES ARE SO PREVALENT,
7 BUT THIS ONE IS PARTICULARLY EGREGIOUS BECAUSE NOT ONLY
8 DID YOU SUBMIT FRAUDULENT APPLICATIONS, BUT THIS KOG INC.
9 WAS A COMPLETE SHAM, APPARENTLY CREATED FOR THE SIMPLE
10 PURPOSE OF APPLYING FOR THE PPP LOAN. THERE ARE MULTIPLE
11 LEVELS OF DISHONESTY INVOLVED THERE, THE FORMATION OF THE
12 SHAM CORPORATION, A FALSE DOCUMENT SHOWING PAYROLL OF
13 EMPLOYEES THAT YOU DIDN'T HAVE, INCLUDING APPARENTLY TWO
14 TELEVISION OR RADIO EVANGELISTS, AND THEN THE FALSE
15 CERTIFICATIONS ON THE LOAN APPLICATION ITSELF.

16 NOW, YOU ATTEMPT TO MINIMIZE THAT BY TELLING ME
17 HOW STRESSFUL THINGS WERE IN YOUR LIFE. IF IT'S NOT
18 OBVIOUS FROM WHAT I HAVE ALREADY SAID, THOSE THINGS DID
19 NOT CAUSE YOU TO COMMIT THIS OFFENSE. YOU MADE CHOICES TO
20 USE METHAMPHETAMINE FOR WHATEVER PURPOSE, AND THAT
21 METHAMPHETAMINE CAUSED YOU TO SUFFER FROM CERTAIN
22 CONDITIONS THAT WERE INDUCED BY THE METHAMPHETAMINE USE,
23 BUT NEITHER THE METHAMPHETAMINE USE NOR THE STRESSES OR
24 CIRCUMSTANCES IN YOUR LIFE CAUSED YOU TO COMMIT THIS
25 OFFENSE. THE REASON I SAY THAT, MR. THOMAS, IS TO REACH A

1 CONCLUSION THAT SOMETHING ELSE, SOME EXTERNAL FORCE CAUSED
2 YOU TO COMMIT THIS OFFENSE RELIEVES YOU FROM ANY
3 RESPONSIBILITY. SO IT'S A SERIOUS OFFENSE.

4 I ALSO THINK THE NEED TO PROMOTE RESPECT FOR
5 THE LAW HERE IS IMPORTANT AS WELL, NOT ONLY BECAUSE OF THE
6 MULTIPLE LEVELS OF DISHONESTY, BUT BECAUSE OF FAILURES TO
7 APPEAR, AND IT'S NOT CLEAR YOU WERE IN CUSTODY AT THOSE
8 TIMES AND YOU DON'T EVEN SEEM TO KNOW MUCH ABOUT THIS
9 CHARGE; BUT ON DECEMBER 17, 2021 YOU WERE CHARGED IN WISE
10 COUNTY GENERAL DISTRICT COURT WITH DRIVING UNDER THE
11 INFLUENCE OF DRUGS. YOU WERE RELEASED ON AN O.R. BOND,
12 CASE WAS SET FOR FEBRUARY 16, 2022, YOU DID NOT APPEAR.
13 YOU WERE APPARENTLY PICKED UP ON THAT FAILURE TO APPEAR,
14 WHICH SUGGESTS TO ME THAT YOU WERE NOT IN JAIL BECAUSE YOU
15 WERE RELEASED ON THE NEXT DAY ON A SUMMONS, AND THE CASE
16 WAS RESET FOR MAY 26, 2022, AND YOU FAILED TO APPEAR, AND
17 THERE'S ANOTHER RELEASE ON SUMMONS, AND I DON'T KNOW
18 EXACTLY WHAT THAT MEANS IN THE STATE OF VIRGINIA, AND NOW
19 YOU HAVE A COURT DATE OF JANUARY 6, 2023. THAT SHOWS A
20 LACK OF RESPECT FOR THE LAW. AND YOUR COMMENTS TODAY
21 SUGGESTING THAT YOU REALLY DON'T KNOW MUCH ABOUT ANY OF
22 THAT SUGGESTS TO ME A VERY LACKADAISICAL ATTITUDE ABOUT
23 THE LAW AND WHAT'S REQUIRED OF YOU. SO I DO THINK THERE
24 IS A NEED HERE TO PROMOTE RESPECT FOR THE LAW ON YOUR PART
25 AND CERTAINLY ON THE PART OF THE GENERAL PUBLIC.

1 I ALSO HAVE TO BE CONCERNED ABOUT THE NEED TO
2 AFFORD AN ADEQUATE DETERRENCE TO CRIMINAL CONDUCT. NOW,
3 MR. THOMAS, LET ME MAKE MYSELF CLEAR IF I DIDN'T A FEW
4 MINUTES AGO, WITH UNRESOLVED MENTAL HEALTH ISSUES AND
5 UNRESOLVED ISSUES RELATED TO DRUG ADDICTION AND WITHOUT
6 WHAT I CONSIDER TO BE A FULL ACCEPTANCE OF RESPONSIBILITY
7 HERE, YOU ARE A VERY HIGH RISK OF REOFFENDING IN SOME
8 MANNER. YOU HAVE MENTAL HEALTH ISSUES THAT NEED TO BE
9 ADDRESSED, YOU HAVE AN ADDICTION THAT NEEDS TO BE
10 ADDRESSED, AND YOU NEED TO STOP OFFERING EXCUSES FOR YOUR
11 CONDUCT.

12 COVID AND THAT NATIONAL EMERGENCY WERE STRESS-
13 FUL FOR A LOT OF PEOPLE. YOUR DAUGHTER, UNFORTUNATELY,
14 WAS NOT THE ONLY ONE SICK DURING THAT PERIOD; AND I DON'T
15 MEAN THAT TO EXPRESS ANY LACK OF SYMPATHY, BUT OTHER
16 PEOPLE EXPERIENCED SIMILAR CONSEQUENCES, PEOPLE HAD FAMILY
17 MEMBERS DYING AND BUSINESSES WERE FAILING ALL ACROSS THE
18 COUNTRY, AND ALL THOSE PEOPLE DIDN'T RUSH OUT AND CREATE A
19 SHAM CORPORATION AND SEEK A FRAUDULENT LOAN.

20 MR. THOMAS, I'D SUGGEST TO YOU THAT DURING THE
21 PERIOD OF INCARCERATION YOU THINK VERY SERIOUSLY ABOUT
22 YOUR OWN ROLE IN ALL OF THIS. I HONESTLY DON'T KNOW WHAT
23 IS NECESSARY TO DETER YOU FROM FURTHER CRIMINAL CONDUCT IN
24 LIGHT OF UNRESOLVED PROBLEMS LIKE I JUST DESCRIBED, BUT AT
25 LEAST THE SENTENCING COMMISSION THINKS THAT A GUIDELINE

1 RANGE SENTENCE IS ADEQUATE TO DO THAT.

2 I ALSO HAVE TO BE CONCERNED ABOUT SOMETHING
3 CALLED GENERAL DETERRENCE MORE GENERALLY DIRECTED TO THE
4 PUBLIC AT LARGE. THESE KINDS OF CASES ARE EGREGIOUS
5 CASES. EVERY TIME THERE IS A NEW GOVERNMENT PROGRAM,
6 SOMEBODY TRIES TO FIGURE OUT A WAY TO FRAUDULENTLY OBTAIN
7 SOME OF THE PROCEEDS OF THAT PROGRAM. IT DOESN'T MAKE ANY
8 DIFFERENCE WHETHER IT'S SMALL BUSINESS ADMINISTRATION OR
9 WHETHER IT'S PPP OR WHETHER IT'S VA OR SOCIAL SECURITY,
10 PEOPLE TRY TO FIGURE OUT HOW TO GET THOSE, AND THAT IS
11 JUST SIMPLE DISHONESTY, MR. THOMAS, IT'S STEALING. AND I
12 AGREE FULLY WITH YOUR MOTHER WHO WROTE THAT LETTER THAT
13 NONE OF WHAT WAS HAPPENING IN YOUR LIFE JUSTIFIES THAT
14 CONDUCT.

15 I HAVE TO CONSIDER ALSO THE NEED TO PROTECT THE
16 PUBLIC. MS. BOLTON EXPLAINED WHY SHE SUBMITTED THAT
17 LETTER FROM YOUR ACCOUNTANT, AND I UNDERSTAND THAT PORTION
18 OF IT; BUT IF I AM TO ACCEPT THAT LETTER, IT SUGGESTS THAT
19 DURING THAT PERIOD OF TIME YOU WERE NOT JUST UNDER STRESS,
20 YOU WERE NOT JUST DOING FRAUDULENT THINGS, YOU WERE A
21 THREAT TO HIS SAFETY. HE DIDN'T ELABORATE ON WHY HE WAS
22 SCARED TO BE AROUND YOU, BUT HE SAID HE WAS. AND WHAT HE
23 DIDN'T WRITE, BUT WHAT I SUSPECT HE WAS TALKING ABOUT, WAS
24 THAT YOUR THOUGHT PROCESSES, YOUR SPEECH, YOUR ACTIONS
25 WERE ALL IRRATIONAL, NOT THAT OF A NORMAL PERSON, AND

1 IRRATIONAL TO THE POINT THAT HE FEARED PHYSICAL VIOLENCE.
2 IF YOU DON'T ADDRESS THESE ISSUES, I THINK THERE'S A
3 LIKELIHOOD YOU'LL GET BACK TO THAT SITUATION AGAIN.

4 NOW, I KNOW YOU HAVE FAMILY SUPPORT. I READ
5 YOUR MOTHER AND FATHER'S LETTER CAREFULLY. THOSE KINDS OF
6 LETTERS IN A LOT OF WAYS BREAK MY HEART BECAUSE THEY TRIED
7 TO DO EVERYTHING THEY COULD. THEY STILL LOVE YOU. YOU
8 ARE THEIR SON, AND THAT WILL REMAIN THE CASE; BUT IT'S
9 OBVIOUS THEY CAN'T INFLUENCE YOUR BEHAVIOR SOMETIMES.

10 I READ THOSE OTHER LETTERS THAT WERE SUBMITTED
11 AS WELL; BUT A MESSAGE HAS TO BE SENT FROM THIS COURT, A
12 MESSAGE OF GENERAL DETERRENCE, THAT FEDERAL COURTS WILL
13 NOT TREAT AS ANYTHING OTHER THAN SERIOUS, WILL NOT IMPOSE
14 PARTICULARLY LENIENT SENTENCES IN CASES LIKE THIS.

15 NOW, I DON'T HAVE ANY STUDY TO BACK THIS UP,
16 BUT I VENTURE A GUESS THAT A VERY LARGE PERCENTAGE OF THE
17 FRAUD DIRECTED TO THE U.S. GOVERNMENT IS UNDETECTED. IT'S
18 A SERIOUS PROBLEM.

19 I ALSO HAVE TO CONSIDER HERE THE NATURE AND
20 CIRCUMSTANCES OF YOUR INVOLVEMENT IN THIS OFFENSE. I
21 AGREE WITH MR. HEAVENER THAT MOST OF THE AGGRAVATING
22 FACTORS HERE ARE TAKEN INTO ACCOUNT BY THE GUIDELINES OR
23 BY PARTICULAR ENHANCEMENTS UNDER THE GUIDELINES. THERE
24 WERE LARGE POTENTIAL LOSSES HERE. I, LIKE MS. BOLTON, AM
25 PLEASED THAT THE GOVERNMENT WAS ABLE TO RECOVER AT LEAST A

1 LARGE PORTION OF THAT MONEY, BUT THE LOSSES WERE HIGH.
2 THERE WAS, AS THE GOVERNMENT PUT IT, EGREGIOUS CONDUCT
3 RELATED TO THIS KOG INC.

4 AND, FINALLY, I HAVE TO CONSIDER YOUR PERSONAL
5 HISTORY AND CHARACTERISTICS, ALL OF THESE PERSONAL ISSUES
6 THAT WE'VE TALKED ABOUT. UNDER THE GUIDELINES EVERY ONE
7 OF THOSE THINGS IS IRRELEVANT BECAUSE THEY DON'T, DON'T
8 EXIST IN THIS CASE TO SOME SORT OF EXTRAORDINARY DEGREE.
9 THEY'RE NOT SO EXCEPTIONAL, SO DIFFERENT THAT IT SETS YOU
10 APART FROM ANY OTHER DEFENDANTS. I SEE DEFENDANTS ALL THE
11 TIME THAT HAVE MENTAL HEALTH ISSUES. I'VE SEEN DEFENDANTS
12 TODAY THAT ARE SUFFERING FROM A SERIOUS DRUG ADDICTION. I
13 SEE DEFENDANTS ALL THE TIME WHO HAVE VERY DIFFICULT PER-
14 SONAL CIRCUMSTANCES. THERE'S A CASE PENDING IN THIS COURT
15 RIGHT NOW WHERE A DEFENDANT'S MOTHER DIED WHILE SHE WAS IN
16 CUSTODY. THOSE ARE ALL DIFFICULT PERSONAL CIRCUMSTANCES,
17 BUT AS A GENERAL RULE UNDER THE GUIDELINES THEY'RE
18 IRRELEVANT BECAUSE THEY'RE NOT EXCEPTIONAL, THEY'RE NOT
19 OUT OF THE ORDINARY; AND UNDER SIXTH CIRCUIT CASE LAW
20 DEALING WITH THESE PERSONAL CIRCUMSTANCES, WHILE THE SIXTH
21 CIRCUIT HAS SAID -- HAS NOT SAID THAT THE COURT CANNOT
22 CONSIDER THOSE THINGS, IT HAS IN MANY OF THOSE CASES FOUND
23 THOSE TO BE DISFAVORED FACTORS WHEN IMPOSING A SENTENCE.

24 THAT BRINGS ME BACK TO THE GUIDELINES, WHERE
25 WITHIN A RANGE OF 37 TO 46 MONTHS TO SENTENCE YOU. THE

1 GOVERNMENT ADVOCATES THE TOP, MS. BOLTON ASKS ME FOR THE
2 BOTTOM. SOME PEOPLE MIGHT ARGUE THAT THAT DIFFERENCE
3 THERE, 9 MONTHS, DOESN'T REALLY MAKE MUCH DIFFERENCE, AND
4 MAYBE IT DOESN'T IN TERMS OF ACCOMPLISHING SOME OF THE
5 PURPOSES OF SENTENCING; BUT I UNDERSTAND THAT 9 MONTHS IS
6 SIGNIFICANT TO YOU, I UNDERSTAND THAT 9 MONTHS IS
7 SIGNIFICANT TO YOUR FAMILY, 9 MONTHS IS SIGNIFICANT TO
8 YOUR DAUGHTER; AND I DON'T KNOW ULTIMATELY WHAT WILL
9 HAPPEN ABOUT THAT VIOLATION OF THAT ORDER OF PROTECTION,
10 MS. BOLTON SEEMS TO THINK THAT IT'S GOING TO BE DISMISSED
11 BECAUSE THE GOVERNMENT CAN'T PROVE IT, AND THAT MAY BE THE
12 CASE, BUT I'LL TELL YOU GOING FORWARD, MR. THOMAS, THAT IF
13 THERE IS ANY DOUBT IN YOUR MIND ABOUT SOMETHING LIKE THAT,
14 YOU SHOULD NOT WRITE AND SEND THE LETTER. YOU CAN'T JUST
15 ASSUME THAT IT NO LONGER APPLIES.

16 SO THE QUESTION FOR ME, VERY SIMPLY PUT, IS
17 WHAT GOAL OF SENTENCING DOES A 46 MONTH SENTENCE REALIZE
18 THAT A 37 MONTH SENTENCE WOULD NOT. IN MY VIEW,
19 MR. THOMAS, A 37 MONTH BOTTOM OF THE GUIDELINE RANGE
20 SENTENCE DOES NOT APPROPRIATELY CAPTURE THE SERIOUSNESS OF
21 THIS OFFENSE, THE SIGNIFICANT LOSSES, THE LEVELS OF FRAUD
22 AND DECEPTION, AND THE FACTORS THAT MAKE YOU A HIGH RISK
23 TO REOFFEND. AT THE SAME TIME I DO NOT FIND THAT THOSE
24 FACTORS DICTATE A SENTENCE AT THE TOP OF THE GUIDELINE
25 RANGE. I'M GOING TO IMPOSE A SENTENCE HERE SLIGHTLY ABOVE

1 THE BOTTOM OF THE GUIDELINE RANGE. I'M GOING TO GIVE YOU
2 THE BENEFIT OF THE DOUBT ON MOST OF THAT, BUT, MR. THOMAS,
3 THINGS HAVE TO CHANGE. YOU NEED TO GET HELP FOR YOUR
4 MENTAL HEALTH PROBLEMS, YOU NEED TO GET HELP FOR THE
5 SUBSTANCE ABUSE PROBLEMS. YOU NEED TO EXAMINE YOURSELF
6 VERY CAREFULLY AND COME TO THE PLACE WHERE YOU FULLY
7 ACCEPT THAT THESE WERE CHOICES YOU MADE.

8 SO HAVING CONSIDERED THE NATURE AND CIRCUM-
9 STANCES OF THE OFFENSE, YOUR HISTORY AND CHARACTERISTICS,
10 THE ADVISORY GUIDELINE RANGE WHICH APPLIES TO THIS CASE,
11 AS WELL AS ALL THE OTHER FACTORS LISTED IN TITLE 18,
12 UNITED STATES CODE, SECTION 3553(A), IT IS PURSUANT TO THE
13 SENTENCING REFORM ACT OF 1984 THE JUDGMENT OF THIS COURT
14 THAT ON COUNT 1 OF THIS INDICTMENT THE DEFENDANT, CHAD
15 BRANDON THOMAS, IS HEREBY COMMITTED TO THE CUSTODY OF THE
16 BUREAU OF PRISONS TO BE IN PRISON FOR A TERM OF 40 MONTHS.

17 NOW, I ALSO HAVE TO DETERMINE HOW TO STRUCTURE
18 THIS SENTENCE IN RELATION TO THE PENDING CHARGE IN WISE
19 COUNTY, VIRGINIA. IT MAY BE, MR. THOMAS, THAT THEY SIMPLY
20 DISMISS ALL OF THAT IN LIGHT OF THIS FAIRLY SIGNIFICANT
21 SENTENCE IN FEDERAL COURT. I DON'T KNOW WHAT THEY WILL DO
22 WITH THAT. IT'S UNRELATED LARGELY TO THIS OFFENSE, BUT AT
23 THE SAME TIME I THINK THE BEST HOPE OF YOU SUCCEEDING
24 COMPLETELY WOULD BE FOR ME TO ORDER THIS SENTENCE TO BE
25 SERVED CONCURRENTLY WITH THAT ONE. I DO THAT WITH A

1 LITTLE BIT OF HESITATION, BUT AT THE SAME TIME I DO WANT
2 TO GIVE YOU AS MUCH BENEFIT OF THE DOUBT AS I CAN GIVE YOU
3 AND I WANT TO GIVE YOU THE BEST CHANCE OF SUCCESS AS I CAN
4 GIVE YOU, AND A SENTENCE THAT IS CONCURRENT WITH THAT
5 MEANS THAT YOU CAN SEE THE LIGHT AT THE END OF THE TUNNEL,
6 YOU KNOW WHEN THIS IS DONE.

7 SO THE SENTENCE SHALL BE SERVED CONCURRENTLY TO
8 ANY SENTENCE IMPOSED IN WISE COUNTY, VIRGINIA GENERAL
9 DISTRICT COURT DOCKET NUMBERS GT2000 -- 2000
10 --21007204-00, AS WELL AS THE OTHER TWO CASE NUMBERS THAT
11 HAVE ARISEN AS A RESULT OF THE CHARGES THAT YOU FAILED TO
12 APPEAR ON TWO OCCASIONS.

13 I DON'T HAVE THOSE CASE NUMBERS HANDY,
14 MS. HOPSON, BUT INSERT THOSE INTO THE JUDGMENT.

15 THE CLERK: YES, YOUR HONOR.

16 THE COURT: IT IS FURTHER ORDERED PURSUANT TO
17 TITLE 18, UNITED STATES CODE, SECTIONS 3663(A) AND 3664(H)
18 THAT YOU PAY RESTITUTION IN THE FULL AMOUNT OF \$307,700
19 TO THE VICTIMS IN THIS CASE; HOWEVER THAT AMOUNT WILL BE
20 ADJUSTED BY THE AMOUNT RECOVERED BY THE GOVERNMENT,
21 RESULTING IN A TOTAL OUTSTANDING RESTITUTION OBLIGATION OF
22 \$145,761.

23 I FIND THAT YOU DO NOT HAVE THE ABILITY TO PAY
24 INTEREST ON THE RESTITUTION ORDERED AND INTEREST IS
25 WAIVED.

1 THE GOVERNMENT MAY ENFORCE THE FULL AMOUNT OF
2 RESTITUTION ORDERED AT ANY TIME PURSUANT TO TITLE 18,
3 UNITED STATES CODE, SECTIONS 3612 AND 3664 (M) .

4 I WILL RECOMMEND THAT YOU RECEIVE ANY AVAILABLE
5 SUBSTANCE ABUSE TREATMENT WHILE IN THE CUSTODY OF THE
6 BUREAU OF PRISONS; AND I DON'T KNOW THAT YOU HAVE ENOUGH
7 TIME LEFT TO GET THE INTENSIVE RDAP PROGRAM, I HOPE YOU
8 DO, BECAUSE THAT'S A VERY GOOD, INTENSIVE DRUG TREATMENT
9 PROGRAM; SO IF YOU CAN GET THE RDAP, THAT'S WHAT I
10 RECOMMEND; BUT IF NOT THE RDAP, THEN ANY OTHER SUBSTANCE
11 ABUSE TREATMENT PROGRAMS THAT THE BOP HAS.

12 I WILL RECOMMEND THAT YOU RECEIVE A FULL
13 PHYSICAL HEALTH AND MAYBE MORE IMPORTANTLY MENTAL HEALTH
14 EVALUATION WHILE IN THE CUSTODY OF THE BUREAU OF PRISONS
15 AND ANY NEEDED TREATMENT WHILE IN THE CUSTODY OF THE BOP.

16 I WILL RECOMMEND AS WELL THAT YOU BE AFFORDED A
17 FULL RANGE OF EDUCATIONAL AND/OR VOCATIONAL PROGRAMS
18 OFFERED BY THE BUREAU OF PRISONS.

19 UPON RELEASE FROM IMPRISONMENT, YOU SHALL BE
20 PLACED ON SUPERVISED RELEASE FOR A TERM OF 3 YEARS.

21 WHILE ON SUPERVISED RELEASE YOU SHALL NOT
22 COMMIT ANOTHER FEDERAL, STATE OR LOCAL CRIME. YOU MUST
23 NOT UNLAWFULLY POSSESS AND YOU MUST REFRAIN FROM THE USE
24 OF ANY CONTROLLED SUBSTANCE. YOU MUST COMPLY WITH THE
25 STANDARD CONDITIONS THAT HAVE BEEN ADOPTED BY THIS COURT

1 IN LOCAL RULE 83.10. IN PARTICULAR, YOU MUST NOT OWN,
2 POSSESS OR HAVE ACCESS TO A FIREARM, ANY AMMUNITION, ANY
3 DESTRUCTIVE DEVICE OR ANY DANGEROUS WEAPON.

4 YOU MUST COOPERATE IN THE COLLECTION OF DNA AS
5 DIRECTED.

6 IN ADDITION, YOU SHALL COMPLY WITH THE FOLLOW-
7 ING SPECIAL CONDITIONS OF SUPERVISED RELEASE: FIRST, YOU
8 SHALL PARTICIPATE IN A PROGRAM OF TESTING AND TREATMENT
9 FOR DRUG AND/OR ALCOHOL ABUSE AS DIRECTED BY THE PROBATION
10 OFFICER UNTIL SUCH TIME AS YOU ARE RELEASED FROM THE
11 PROGRAM BY THE PROBATION OFFICER.

12 SECONDLY, YOU SHALL PARTICIPATE IN A PROGRAM OF
13 MENTAL HEALTH TREATMENT AS DIRECTED BY THE PROBATION
14 OFFICER UNTIL SUCH TIME AS YOU ARE RELEASED FROM THE PRO-
15 GRAM BY THE PROBATION OFFICER. YOU MUST WAIVE ALL RIGHTS
16 TO CONFIDENTIALITY REGARDING MENTAL HEALTH TREATMENT IN
17 ORDER TO ALLOW RELEASE OF INFORMATION TO THE SUPERVISING
18 UNITED STATES PROBATION OFFICER AND TO AUTHORIZE OPEN
19 COMMUNICATION BETWEEN THE PROBATION OFFICER AND THE MENTAL
20 HEALTH TREATMENT PROVIDER.

21 THIRD, YOU SHALL PROVIDE THE PROBATION OFFICER
22 WITH ACCESS TO ANY REQUESTED FINANCIAL INFORMATION.

23 THIRD -- OR FOURTH, RATHER, YOU SHALL NOT INCUR
24 NEW CREDIT CHARGES ON EXISTING ACCOUNTS OR APPLY FOR
25 ADDITIONAL LINES OF CREDIT WITHOUT PERMISSION OF THE

1 PROBATION OFFICER UNTIL THE RESTITUTION HAS BEEN PAID IN
2 FULL. IN ADDITION, YOU SHALL NOT ENTER INTO ANY
3 CONTRACTUAL AGREEMENTS WHICH OBLIGATE FUNDS WITHOUT THE
4 PERMISSION OF THE PROBATION OFFICER.

5 FIFTH, YOU SHALL PAY ANY FINANCIAL PENALTY
6 IMPOSED BY THIS JUDGMENT AS A CONDITION OF SUPERVISION.
7 ANY AMOUNT THAT REMAINS UNPAID AT THE COMMENCEMENT OF THE
8 TERM OF SUPERVISED RELEASE SHALL BE PAID ON A MONTHLY
9 BASIS IN THE AMOUNT OF AT LEAST 10 PERCENT OF YOUR NET
10 MONTHLY INCOME.

11 YOU SHALL -- ALSO YOU SHALL SUBMIT YOUR PERSON,
12 PROPERTY, HOUSE, RESIDENCE, VEHICLE, PAPERS OR OFFICE TO A
13 SEARCH CONDUCTED BY A UNITED STATES PROBATION OFFICER OR
14 DESIGNEE. FAILURE TO SUBMIT TO A SEARCH MAY BE GROUNDS
15 FOR REVOCATION OF RELEASE. YOU MUST WARN ANY OTHER
16 OCCUPANTS THAT THE PREMISES MAY BE SUBJECT TO SEARCH
17 PURSUANT TO THIS CONDITION. AN OFFICER MAY CONDUCT A
18 SEARCH PURSUANT TO THIS CONDITION ONLY WHEN REASONABLE
19 SUSPICION EXISTS THAT YOU HAVE VIOLATED A CONDITION OF
20 YOUR SUPERVISED RELEASE AND THAT THE AREAS TO BE SEARCHED
21 CONTAIN EVIDENCE OF THE VIOLATION. ANY SEARCH MUST BE
22 CONDUCTED AT A REASONABLE TIME AND IN A REASONABLE MANNER.

23 AND, FINALLY, AND I THINK THIS IS NUMBER 7, I
24 MAY HAVE MISCOUNTED --

25 THE CLERK: IT IS, YOUR HONOR.

1 THE COURT: -- YOU SHALL NOT TAKE ANY
2 PRESCRIBED NARCOTIC DRUG WITHOUT FIRST NOTIFYING THE
3 PHYSICIAN THAT YOU HAVE A SUBSTANCE ABUSE PROBLEM AND
4 WITHOUT OBTAINING PERMISSION FROM THE PROBATION OFFICER.

5 IN ADDITION TO THAT, TO THE EXTENT ANY MENTAL
6 HEALTH MEDICATIONS ARE PRESCRIBED, THE PROBATION OFFICE IS
7 AUTHORIZED TO ORDER REGULAR BLOOD TESTS TO ENSURE THAT YOU
8 ARE IN FACT TAKING THE MEDICATION.

9 NOW, THAT'S CRITICAL, MR. THOMAS. I'LL TELL
10 YOU ONE THING I'VE LEARNED ABOUT MENTAL HEALTH MEDICATIONS
11 OVER ALL THESE YEARS DOING THIS, PEOPLE HAVE MENTAL HEALTH
12 CONDITIONS, THEY ARE PRESCRIBED MEDICATION, THEY BEGIN TO
13 FEEL BETTER, THEY COME TO THE CONCLUSION THEY DON'T NEED
14 THE MENTAL HEALTH MEDICATIONS, AND THEY FALL RIGHT BACK IN
15 THE SAME TRAP AGAIN; SO IF THERE ARE MENTAL HEALTH
16 MEDICATIONS PRESCRIBED, YOU NEED TO STAY ON THEM. AFTER
17 READING THAT REPORT, I DON'T KNOW WHAT THE BOP WILL, WILL
18 PRESCRIBE, IF ANYTHING, BUT YOU MAY VERY WELL HAVE
19 MEDICATIONS THAT ARE PRESCRIBED DURING A MENTAL HEALTH
20 TREATMENT PROGRAM WHILE ON SUPERVISED RELEASE, BUT YOU
21 HAVE TO TAKE THOSE MEDICATIONS.

22 IT IS FURTHER ORDERED THAT YOU SHALL PAY TO THE
23 UNITED STATES A SPECIAL ASSESSMENT OF \$100 WHICH IS
24 MANDATORY PURSUANT TO TITLE 18, UNITED STATES CODE,
25 SECTION 3013, WHICH SHALL BE DUE IMMEDIATELY.

1 I FIND THAT YOU DO NOT HAVE THE ABILITY TO PAY
2 A FINE, THE COURT WAIVES ANY FINE IN THIS CASE.

3 THE COURT HAS REVIEWED YOUR PLEA AGREEMENT WITH
4 THE GOVERNMENT, THAT PLEA AGREEMENT IS NOW ACCEPTED BY THE
5 COURT.

6 TITLE 18, UNITED STATES CODE, SECTIONS 3565(B)
7 AND 3583(G) REQUIRE MANDATORY REVOCATION OF SUPERVISED
8 RELEASE FOR POSSESSION OF A CONTROLLED SUBSTANCE OR A
9 FIREARM OR FOR REFUSAL TO COMPLY WITH DRUG TESTING.

10 IT LOOKS LIKE THAT YOU WERE INITIALLY ARRESTED
11 ON AUGUST 8, 2021 AND RELEASED ON BOND THE SAME DAY, SO
12 THAT'S ONE DAY, BUT AT SOME POINT YOUR BOND WAS REVOKED IN
13 THIS CASE, AND I DON'T HAVE THAT DATE. DO YOU REMEMBER
14 WHAT DATE?

15 MR. HEAVENER: YOUR HONOR, MY BEST RECOLLECTION
16 IS THERE WAS A, A MOTION FILED FOR A COMPETENCE EVALUATION
17 BY THE DEFENSE AND HE WAS IN CUSTODY --

18 THE COURT: THAT'S WHY HE WAS IN CUSTODY. I
19 MISSPOKE, YOU'RE RIGHT.

20 MR. HEAVENER: YES, SIR.

21 THE COURT: AND DO YOU KNOW THE DATE OF THAT
22 ORDER?

23 PROBATION OFFICER: OCTOBER 25, 2022, YOUR
24 HONOR.

25 THE COURT: AND HE HAS BEEN IN CONTINUOUS

1 CUSTODY SINCE THEN?

2 PROBATION OFFICER: YES, YOUR HONOR.

3 THE COURT: ALL RIGHT. THEN I'LL RECOMMEND
4 THAT YOU RECEIVE CREDIT FOR ALL TIME SERVED BETWEEN
5 OCTOBER 25, 2022 AND THE PRESENT.

6 DO YOU WANT ME TO RECOMMEND A FACILITY FOR THE
7 SERVICE OF THE SENTENCE?

8 MS. BOLTON: YOUR HONOR, BUTNER, NORTH
9 CAROLINA.

10 THE COURT: I THINK BUTNER IS A GOOD CHOICE,
11 MR. THOMAS, BECAUSE THEY HAVE VERY GOOD MEDICAL -- BOTH
12 MEDICAL AND MENTAL HEALTH FACILITIES THERE, AND IT'S
13 RELATIVELY CLOSE TO YOUR FAMILY TO FACILITATE CONTINUED
14 CONTACT WITH THEM, SO I WILL RECOMMEND THAT YOU BE
15 DESIGNATED TO THE FACILITY AT BUTNER, NORTH CAROLINA TO
16 SERVE THIS SENTENCE.

17 PURSUANT TO RULE 32 OF THE FEDERAL RULES OF
18 CRIMINAL PROCEDURE, THE COURT ADVISES YOU THAT YOU MAY
19 HAVE THE RIGHT TO APPEAL YOUR CONVICTION OR THE SENTENCE
20 IMPOSED IN THIS CASE. A NOTICE OF APPEAL MUST BE FILED
21 WITHIN 14 DAYS OF THE ENTRY OF THE JUDGMENT. IF YOU
22 REQUEST AND SO DESIRE, THE CLERK OF THE COURT CAN PREPARE
23 AND FILE THE NOTICE OF APPEAL FOR YOU.

24 MR. THOMAS, IF YOU WANT TO APPEAL, YOU NEED TO
25 IMMEDIATELY TELL YOUR, TELL YOUR LAWYER THAT YOU WANT TO

1 APPEAL OR NOTIFY THE CLERK'S OFFICE.

2 DOES EITHER PARTY HAVE ANY OBJECTION TO THE
3 SENTENCE JUST PRONOUNCED BY THE COURT THAT HAS NOT BEEN
4 PREVIOUSLY RAISED?

5 MR. HEAVENER: YOUR HONOR, I MAY HAVE -- WE HAD
6 SUBMITTED A ORDER OF FORFEITURE TODAY --

7 THE COURT: I WILL SIGN THAT ORDER. I HAVE NOT
8 YET.

9 MR. HEAVENER: I JUST WANTED TO MAKE SURE THAT
10 THE JUDGMENT MENTIONED THE FORFEITURE.

11 THE COURT: BUT I DID NOT MENTION THAT, I
12 NEGLECTED TO SAY THIS JUDGMENT WILL ALSO INCLUDE
13 FORFEITURE AS PROVIDED FOR IN THAT PRELIMINARY ORDER OF
14 FORFEITURE.

15 ANYTHING ELSE, MR. HEAVENER?

16 MR. HEAVENER: NO, YOUR HONOR, AND NO
17 OBJECTION.

18 THE COURT: ANY OTHER OBJECTION, MS. BOLTON?

19 MS. BOLTON: NO, YOUR HONOR.

20 PROBATION OFFICER: YOUR HONOR, I DIDN'T KNOW
21 IF YOU WANTED TO ADDRESS THE PENDING VIOLATION ORDER OF
22 PROTECTION TO RUN CONCURRENTLY OR CONSECUTIVELY.

23 THE COURT: BASED ON WHAT MS. BOLTON HAS TOLD
24 ME, REPRESENTED TO ME, I'M INCLINED TO THINK THAT THIS
25 OUGHT TO BE CONCURRENT WITH THAT AS WELL, MR. THOMAS,

1 SIMPLY BECAUSE WHAT I'M DOING IS ROLLING IT UP INTO ONE
2 PACKAGE. THAT'S A SERIOUS OFFENSE. MS. BOLTON THOUGHT
3 EVERYBODY WAS GETTING ALL UPSET ABOUT THAT, BUT THAT'S A
4 SERIOUS ALLEGATION.

5 MR. HEAVENER: YOUR HONOR, IF I COULD JUST ADD,
6 I DID LOOK BACK THROUGH THE POLICE REPORT, AND I HAVE NOT
7 REVIEWED THE STATE DOCKET, BUT THE POLICE REPORT REFLECTS
8 THAT THAT ORDER IS IN, IS IN EFFECT UNTIL I BELIEVE AUGUST
9 23RD.

10 THE COURT: AUGUST -- LATER THIS MONTH, OR
11 LATER THIS WEEK ACTUALLY.

12 MR. HEAVENER: YES, SIR. I'VE GOT A PICTURE OF
13 THE -- I THINK IT'S THE PICTURE OF THE ORDER, BUT IT'S A
14 VERY SMALL PICTURE, SO I DON'T WANT TO REPRESENT TO THE
15 COURT WHAT IT IS, BUT --

16 THE COURT: WELL, IF THE ALLEGED OFFENSE
17 OCCURRED WHILE THE ORDER WAS IN EFFECT, THEY COULD STILL
18 PROSECUTE HIM.

19 MS. BOLTON: SURE, AND I WANT TO CLARIFY. WHEN
20 IT WAS EXTENDED TO AUGUST 23RD, OR AUGUST 23RD, AUGUST
21 2000 --

22 THE COURT: '23.

23 MS. BOLTON: '23, SORRY, HE WAS NOT GIVEN
24 NOTICE OF THAT, THAT'S WHERE THE, THE, THE DIFFERENCE IS;
25 BUT EITHER WAY --

1 THE COURT: I DON'T HAVE ANY WAY OF KNOWING
2 THAT; BUT, MR. THOMAS, THAT'S A VERY EXPLOSIVE SITUATION.
3 THERE ARE NUMEROUS PEOPLE KILLED IN THIS COUNTRY AS A
4 RESULT OF DOMESTIC DISPUTES, THERE ARE NUMEROUS POLICE
5 OFFICERS KILLED EVERY YEAR RESPONDING TO DOMESTIC
6 DISPUTES. IT IS, FRANKLY, SOMETHING TO GET UPSET ABOUT,
7 SOMETHING FOR EVERYBODY TO BE CONCERNED ABOUT, BUT,
8 NEVERTHELESS, I'LL ORDER THAT IF THERE'S ANY SENTENCE
9 IMPOSED IN THAT CASE, THIS WILL BE CONCURRENT WITH THAT.

10 WHAT ELSE, MS. EARLY?

11 PROBATION OFFICER: THAT'S IT, YOUR HONOR.

12 THANK YOU.

13 THE COURT: ALL RIGHT.

14 MR. THOMAS, I WISH YOU THE BEST. YOU'VE GOT A
15 MOUNTAIN TO CLIMB HERE IN TERMS OF PROBLEMS YOU HAVE TO
16 DEAL WITH. I WISH YOU THE VERY BEST IN DOING THAT. I
17 HOPE YOU TAKE ADVANTAGE OF EVERY BOP RESOURCE AVAILABLE TO
18 YOU, THAT YOU HAVE A PLAN WHEN YOU ARE RELEASED, AND THAT
19 YOU GET ABOUT REALIZING THAT PLAN.

20 THE DEFENDANT: THANK YOU.

21 THE COURT: I WISH YOUR DAUGHTER THE BEST AS
22 WELL.

23 THE DEFENDANT: ALL RIGHT. THANK YOU.

24 THE COURT: GOOD LUCK TO YOU AND YOUR FAMILY.

25 ALL RIGHT. THAT'S IT FOR TODAY. LET'S ADJOURN

1 FOR THE DAY. THANK YOU ALL.

2 MR. HEAVENER: THANK YOU, YOUR HONOR.

3 (PROCEEDINGS ARE CONCLUDED AT 4:25 P.M.)

4 I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM
5 THE RECORD OF PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

6
7
8 KAREN J. BRADLEY/S
SIGNATURE OF COURT REPORTER

01/19/2024
DATE