UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA	)	
	)	
v.	)	23 CR 97
	)	Hon. Elaine E. Bucklo
	)	
CHRISTOPHER SCOTT.	)	

CHRISTOPHER SCOTT'S SENTENCING MEMORANDUM

NOW COMES Defendant, CHRISTOPHER SCOTT, by and through his attorney, JOSHUA B. ADAMS, and respectfully requests, pursuant to 18 U.S.C. § 3553(a), and *United States v. Booker*, 543 U.S. 220 (2005), that this Honorable Court set Mr. Scott's total offense level at 16, with a Criminal History Category VI, and impose a sentence of 24-months imprisonment. Such sentence is sufficient, but not greater than necessary, to comply with the purposes of sentencing set forth in 18 U.S.C. § 3553(a). In support of this request, Mr. Scott states the following.

I. SENTENCING REQUEST

Mr. Scott has worked hard since his release from custody in 2010. Despite being charged in a state case while on supervised release, Mr. Scott has tried to rebuild his life since his prison sentence. He works in real estate development and credit repair. Mr. Scott is both ashamed and remorseful for his conduct before this court. A sentence of -months incarceration accounts for the nature and circumstances of this offense and allows Mr. Scott to repay his financial debt and argues this sentence is sufficient, but not greater than necessary to comply with the directives of § 3553(a).

II. Objections to advisory guideline range

1. Mr. Scott objects to the loss amount calculation

The PSI adds 16-points to the total offense level because it calculates the total loss amount at $1,868,933.00. PSI, ¶31. It is Mr. Scott's position that the total loss amount should be calculated by the actual loss, which is $393,333. Mr. Scott acknowledges the Seventh Circuit has held that

> The word "loss" is not defined in § 2B1.1(b)(1) itself. Application Note 3 in the commentary to § 2B1.1, however, explains that "loss is the greater of actual loss or intended loss." U.S.S.G. § 2B1.1 cmt. n.3(A). The note goes on to define "actual loss" as "the reasonably foreseeable pecuniary harm that resulted from the offense," *id.* cmt. n.3(A)(i), and "intended loss" as "the pecuniary harm that the defendant purposely sought to inflict; and includes intended pecuniary harm that would have been impossible or unlikely to occur." *Id.* cmt. n.3(A)(ii) (internal numbering omitted).

United States v. Ponle, 110 F.4th 958 (7th Cir. 2024). It is Mr. Scott's position that because restitution is based on the actual loss amount, so should his loss amount for purposes of guidelines calculations. Mr. Scott understands this is in direct contradiction to the established Seventh Circuit case law.

2. Mr. Scott objects to the 2-level enhancement for acting on behalf of an educational organization.

The PSI assigns 2-points because "the fraud involved in this case included a misrepresentation that the defendant was acting on behalf of an educational organization." PSI.,¶32. It is Mr. Scott's position that a Montessori school is not an "educational organization" as defined under the Illinois School Code https://www.ilga.gov/legislation/ILCS/details?MajorTopic=&Chapter=&ActName=School%20Code.&ActID=1005&ChapterID=17&SeqStart=&&ChapAct=FullText. (last visited 7/18/2025). Therefore, according to Mr. Scott, this enhancement should not apply. As the parties did not contemplate this either in the plea agreement, this honorable court should not consider it either.

III. A SENTENCE OF 24-MONTHS IMPRISONMENT BEST ACCOMPLISHES THE GOALS OF 18 U.S.C. § 3553(a)

In *United States v. Booker*, the Supreme Court effectively rendered the United States Sentencing Guidelines (USSG) advisory. 543 U.S. 220 (2005). However, the sentencing court is required to follow the list of factors enumerated in § 3553(a). In *Rita v. United States*, the Court held that district court judges are required "to 'impose a sentence sufficient, but not greater than necessary, to comply with the basic aims of sentencing in § 3553(a)." 127 S.Ct.

at 2469.

Post-*Booker*, the district court should place "no limitation" on the information concerning the background, character, and conduct of a person convicted of an offense. *See* 18 U.S.C. § 3661; *Booker*, 125 S.Ct. at 760. There are several "individual characteristics . . . not ordinarily considered under the Guidelines," but are still "matters that § 3553(a) authorizes the sentencing judge to consider." *Rita*, 127 S.Ct. at 2473 (Stevens, J., concurring).

The Court must impose a sentence sufficient, but not greater than necessary to comply with the purposes set forth in paragraph (2), " which are "the need for the sentence imposed—

> (A) to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense.
> (B) to afford adequate deterrence to criminal conduct;
> (C) to protect the public from further crimes of the defendant; and
> (D) to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner."

18 U.S.C. § 3553(a)(2). In "determining the particular sentence to be imposed," the Court must consider these purposes, the nature and circumstances of the offense and the history and characteristics of the defendant, the need to avoid unwarranted disparities, and the need to provide restitution to any victims of the offense. 18 U.S.C. § 3553(a)(1)-(7).

With these principles in mind, we turn to Mr. Scott's proposed sentence.

1. Nature and Circumstances of the offense

There is no doubt this is a serious offense. Congress enacted the PPP to help distressed business during the COVID pandemic. Mr. Scott took advantage of that for his own personal gain. He is both extremely remorseful and ashamed of his conduct. Mr. Scott truthfully admitted his own conduct in this offense and attempted to assist law enforcement through several proffers to uncover other pandemic era frauds and other related financial crimes. While the information Mr. Scott provided did not lead to charges against individuals, his post arrest conduct shows a willingness to assist law enforcement, and true remorse. He provided truthful and complete information to agents and did not minimize his own conduct.

Unlike his prior fraud case, Mr. Scott actively sought to cooperate with the federal government. He did so because he realizes this is not the way he wants to lead his life. He wants to spend it with family and enjoy his freedom.

2. Christopher's personal history and characteristics

Christopher is a devoted father and has worked hard to regain the trust of his friends and family after his previous term of incarceration. Chris has started various business including credit repair services. He has written books about financial independence and has worked hard to lead a law-abiding life after his prison sentence. Unfortunately, he took advantage of the PPP loan program during COVID and risks unravelling all his hard work over the past decade.

3. The need for specific deterrence

In this case, specific deterrence is perhaps the most significant factor laid out in §3553(a). Chris is at a Criminal History VI and had a previous federal conviction for fraud. However, this case is different. Unlike his previous cases, this time Chris cooperated with law enforcement to uncover other PPP fraud, as well as other unrelated financial crimes in the Northern District of Illinois. While his information did not lead to any new charges, his intent was clear. Chris does not want to continue this way of life, and risk separation from his family as a result of his criminal conduct.

In determining the sentence necessary to protect the public and deter future criminal conduct, a district court may note the length of any previous sentences imposed upon the defendant. *United States v. Qualls*, 373 F.Supp.2d 873, 877 (E.D. Wis. 2005).

In *Gall*, the Supreme Court warned that imposition of an unnecessary sentence "may work to promote not respect, but derision, of the law if the law is viewed as merely the means to dispense harsh punishment without taking into account the real conduct and circumstance involved in sentencing." 522 U.S. 38, 54 (2007). A sentence within the applicable Guidelines range would impose a term of imprisonment of unnecessary length, which risks derision of the law.

4. *A 24-month sentence of incarceration adequately punishes Chris*

Here, Mr. Scott is statutorily eligible for a sentence of 1-5 years of probation on Count One. 18 U.S.C. § 3561(c)(1). The advisory guidelines recommend a sentence of 84-105 months' imprisonment.

Finally, while the guidelines range is the starting place, the judge "may not presume that the Guidelines range is reasonable." *Gall*, 552 U.S. at 50 (emphasis added). "[T]he Guidelines are only one of the factors to consider when imposing sentence, and § 3553(a)(3) directs the judge to consider sentences other than imprisonment." *Id*. at 59.

5. *A guideline sentence would be higher than similarly situated defendants*

A guideline sentence for Mr. Scott would result in a higher sentence than defendants similarly situated to him. According to IRS statistics, as of February 2024, the 373 convicted of COVID related crimes have been sentenced to an average of 34 months imprisonment. *See* Ex. A. https://www.irs.gov/newsroom/irs-criminal-investigation-releases-updated-covid-fraud-statistics-on-4th-anniversary-of-cares-act-nearly-9-billion-investigated (last visited 8/13/2025). Exhibit A gives two examples of individuals who were responsible for loss amounts in the millions and received sentences of 9 and 10 years respectfully. Mr. Scott's actual loss is $393,333. A guidelines sentence for him would create a sentencing disparity among similarly situated defendants charged with similar COVID fraud cases.

IV. CONCLUSION

For the foregoing reasons, Mr. Scott respectfully submits that a sentence of 24-months incarceration is sufficient, but not greater than necessary, to satisfy the purposes of sentencing.

Respectfully submitted,

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