

2024-10-22 PM 2:36
LED - USDC - FLMD - ORL

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA

UNITED STATES OF AMERICA, Plaintiff,

v.

Case No.: 6:21-CR-16-WWB-DCI

DON VICTOR CISTERNINO, Defendant.

MOTION AND REQUEST TO MODIFY SENTENCE

COMES NOW, Mr. Don V. Cisternino, Defendant, to respectfully move this honorable Court to modify his sentence pursuant to 18 U.S.C. 3582(c)(2) and U.S.S.G. 4C1.1 by stating the following:

1. On 11 January 2023, Defendant was sentenced to seventy-eight (78) months in federal prison for violating 18 U.S.C. 1957.
2. Defendant is currently incarcerated at F.P.C. [Federal Prison Camp] Montgomery on the Maxwell Air Force Base in Montgomery County, Montgomery, Alabama.
3. Pursuant to 18 U.S.C. 3582(c)(2), if a defendant has been sentenced to a term of imprisonment based on a sentencing range that has subsequently been lowered, upon motion for resentencing, the Court may reduce the term if such reduction is consistent with applicable policy statements issued by the Sentencing Commission.
4. Pursuant to Part B, Subpart 1 of Amendment 821, in 2023, the United States Sentencing Commission enacted U.S.S.G. 4C1.1, which authorizes a two-level reduction of a defendant's Total Offense Level for defendants with zero (0) criminal history points and whose instant offense did not involve specified aggravating factors.
5. Part B, Subpart 1 of Amendment 821 has been listed in U.S.S.G. 1B1.10(d) as an amendment that is available for retro-active application.
6. As provided in U.S.S.G. 1B1.10, prior to reducing a defendant's term of imprisonment pursuant to U.S.S.G. 4C1.1 and 18 U.S.C. 3582(c)(2), the Court must determine whether the defendant is eligible for the two-level reduction and, if so, whether said reduction would result in a lower guideline range for the defendant.

7. The Defendant in this matter has zero (0) criminal history points; was not convicted of an offense involving any of the aggravating factors in U.S.S.G. 4C1.1; and is otherwise eligible for the two-level reduction.

8. When considering whether to resentence an eligible defendant, the Court must consider the sentencing factors listed in 18 U.S.C. 3553(a). 18 U.S.C. 3582(c)(2). Further, a defendant's post-sentencing conduct may also be considered. U.S.S.G. 1B1.10 cmt.n.1(b)(iii). If, after such considerations, the Court believes that a lower sentence would be sufficient but not greater than necessary to achieve the goal of sentencing, it may lower defendant's sentence.

9. In this matter, Defendant's post-sentencing conduct clearly demonstrates that he is deserving of resentencing within the above-referenced reduced guideline range, in that:

a) Defendant has been incident-free and has not been subject to disciplinary action of any kind or type throughout his incarceration;

b) Defendant has maintained the following employment while incarcerated:

Inmate Transporter
2023 March to 2024 April
Worker, GCE-04 Gunter Grounds
2024 July to PRESENT

Defendant has also maintained an Ad hoc position of Instructor, leading three (3) courses for Beginning Guitar over the course of the years 2023 and 2024 and a (1) course for Music Theory in 2024. The course for Beginning Guitar met weekly over the course of four (4) consecutive weeks; the course for Music Theory likewise met weekly over the course of eight (8) weeks. Defendant is currently teaching the course for Music Theory and is set to begin a new course for the same subject immediately following its completion.

c) Defendant has made consistent monthly payments of \$25 per quart. in fulfillment of his Financial Responsibility-Participates (F.R.P.) assignment, which started 04 March 2023;

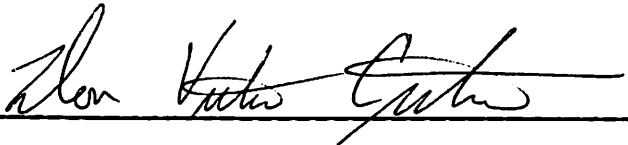
d) Defendant has followed the directives of his Case Manager regarding his immediate and long term goals, and has completed, or is currently enrolled in, all recommended courses and programs (N.B., * indicates courses/programs in which the defendant is currently taking or enrolled):

MUSIC THEORY	2024-02-04
INTRO TO MUSIC	2024-01-27
MONEY SMART OLDER ADULTS RPP 3	2024-01-08
INTRO TO RECREATION FACILITIES	2023-12-03
MIND SET	2023-10-11
INTRO TO HOBBYCRAFT	2023-09-17
DAY CLASS FOR DRUG EDUCATION	2023-08-11
CIVIL RIGHTS (UB)	2023-07-06

Defendant has been in First Step Act (F.S.A.) earning status since the beginning of his sentence.

WHEREFORE, for the foregoing reasons, Defendant respectfully requests that this Court grant his Motion and Request to Modify Sentence; enter its Order resentencing Defendant within the appropriate reduced guideline range; and for such other and further relief as the Court deems just and proper on the premises.

Signed,



Don Victor Cisternino
Federal Register Number 98512-509
Federal Prison Camp Montgomery
Maxwell Air Force Base
1001 Willow Street
Montgomery, Montgomery County, Alabama
36112-0000

Don Cisternino
98512-509

Federal Prison Camp
1001 Willow St.

Montgomery, AL 36112

Case 6:21-cr-00016-AGM-DCI

Document 52

Filed 10/22/24

Page 4 of 5 PageID 305



9589 0710 5270 2367 2660 58

RDC 99

U.S. District Court
Middle District of Florida
Clerk of Court
401 West Central Blvd.
Orlando, FL 32801

RETURN RECEIPT
REQUESTED

32801-045525



32801

\$8.95
S2324E500632-13

U.S. POSTAGE PAID
FCM LETTER
SAINT AUGUSTINE, FL 32084
OCT 16, 2024



