

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

UNITED STATES OF AMERICA

v.

CASE NO.: 2:22-cr-39-SPC-NPM

DANIEL JOSEPH TISONE

\_\_\_\_\_ /

**SENTENCING MINUTES**

|                        |                                                     |
|------------------------|-----------------------------------------------------|
| Presiding Judge:       | United States District Judge Sheri Polster Chappell |
| Counsel for Plaintiff: | Trenton Reichling and Susan Nebesky                 |
| Counsel for Defendant: | Mark R. Eiglarsh                                    |
| Probation Officer:     | Nick Stevens                                        |
|                        |                                                     |
| Date and Time:         | February 21, 2023 @ 10:00 AM                        |
| Deputy Clerk:          | Allison Holland                                     |
| Court Reporter:        | Stacey Raikes                                       |

Start Time: 10:30am Court convenes.

AUSA Reichling on behalf of the Government, Attorney Mark Eiglarsh present on behalf of the defendant, Daniel Joseph Tisone, who is also present in court today. USPO Nick Stevens also present in court.

The Court addresses defense pleading filed late last night (over 200+ pages) have been reviewed prior to hearing.

The Defendant confirms he received a copy of the PSR and reviewed the report with his attorney, asking all necessary questions and discussing facts contained therein.

Attorney Eiglarsh advises no objections to the facts contained in the PSR and defense has no objections to the officer's application of the guidelines as applied by the probation officer.

Defense states objections raised in motions filed. Defense cites pleading filed January 9<sup>th</sup>, at docket entry 70 (MOTION for downward departure From Criminal History Category III). Counsel advised pleading 70 was stricken on January 10<sup>th</sup> via endorsed order, directing defense to raise

any objections to the Preliminary Presentence Report directly to United States Probation.

The Court inquires of probation as to objections; objections received from defense and addressed.

AUSA Reichling responds, cites case law; copies provided to court and opposing counsel.

As to Dupree, for the reasons stated on the record, the Court overrules the objection.

Defense raises objection to categorization of defendant's criminal history, argues for departure. The government responds.

For the reasons stated on the record, the objection is overruled.

Defense has no further objections.

AUSA Reichling advises the Government has no objections to the facts contained in the PSR and no objections to the application of guidelines.

The Court adopts the undisputed facts and guideline applications contained in PSR. As to any controverted guideline applications, the Court does adopt the position of the probation officer, as stated in the addendum and as stated by the Court in its ruling. The Court reviews the total offense level and criminal history category, and guideline range sentence. The Court reviews the potential penalties and sentence.

No victims present in court today.

AUSA Reichling outlines facts contained on the government's 5K1.1 Motion for Variance, requesting two level reduction. Attorney Eiglarsh argues additional level reduction.

The Court grants the motion for a two-level reduction and reviews the new total offense level and criminal history category, and guideline range sentence. The Court reviews the potential penalties and sentence.

Attorney Eiglarsh presents argument as to the imposition of sentence, requests downward variance.

The Defendant addresses the Court.

AUSA Reichling presents argument as to the imposition of sentence within guideline range, responding to defendant's statements. Request for forfeiture and restitution to be included in judgment.

The Court inquires of the government.

Defense counsel responds.

AUSA Nebesky addresses forfeiture issues.

For the reasons stated on the record, the Court imposes the sentence as follows:

**IMPRISONMENT:**

The defendant is hereby sentenced to a term of **87-MONTHS**, as to Counts 2, 8, 14 and 18, all such terms shall run concurrently to each other.

**SUPERVISED RELEASE:**

The defendant is sentenced to a term of **3-YEARS**, as to Counts 2, 8, 14 and 18, all such terms shall run concurrently to each other.

***Special conditions of supervised release:***

The Defendant shall continue to participate in substance abuse treatment program and follow the recommendations

The Defendant prohibited from incurring new credit charges, opening additional lines of credit, or obligating yourself for any major purchases.

Defendant shall provide the probation officer with all financial information as requested.

The Defendant shall submit to searches.

Drug testing not to exceed 104 tests per year.

The Defendant shall cooperate in the collection of DNA.

**SPECIAL ASSESSMENT** of \$400.00, due immediately.

Fines waived.

Restitution ordered; AUSA Reichling to provide exact amounts and parties payable to.

You shall pay the balance in monthly payments of ten percent of your monthly income. While in Bureau of Prisons custody, you shall either (1) pay at least \$25 quarterly if you have a non-Unicor job or (2) pay at least 50% of your monthly earnings if you have a Unicor job. Interest waived.

Forfeiture to be included in judgment, as requested.

The Court accepts the plea of the parties; Counts 1, 3-7, 9-13 and 15-17 are dismissed on motion of the government and as per the parties' amended plea agreement.

Request for defendant participate in RDAP program while in BOP.

Request for placement in facility close to Fort Myers, Florida.

No objection from either party to the sentence imposed.

Defense request for voluntary surrender date 90 days out. Government does not object to self-surrender but request no more than 30-days out. The Court will allow Defendant to self-surrender on Wednesday, April 19, 2023 no later than 2pm, if defendant designated to facility sooner than that date must report as directed by BOP.

Defendant remains on same conditions as previously directed; report to USPO to confirm if any other directives.

Defendant is expected to assist in forfeiture issues pending self-surrender.

End time: 11:55am

Back on record at 1:17 pm

The Court is recalling the case to advise Mr. Tisone of his right to appeal.

The Court inquires as to pending motions filed by interested parties related to properties. Attorney Nebesky is working with counsel to resolve motions.

End time: 1:19pm