

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 23-00098-04-CR-W-BCW
	)	
CAMERON HENDERSON,	)	
	)	
Defendant.	)	

**DEFENDANT CAMERON HENDERSON’S SENTENCING MEMORANDUM AND
MOTION FOR DOWNWARD VARIANCE**

COMES NOW Defendant Cameron Henderson, by and through his attorney, and hereby files this Sentencing Memorandum to aid the Court in imposing a sentence which is sufficient but not greater than necessary to serve the objectives of sentencing, as reflected in 18 U.S.C. § 3553(a). Mr. Henderson is asking this court to vary downward slightly from the advisory Sentencing Guidelines and impose a sentence of probation without any condition of intermittent confinement, community confinement, or home confinement, .

I. Introduction

Mr. Henderson pleaded guilty to wire fraud, in violation of 18 U.S.C. § 1343, in connection with his recruitment by Renetta Golden-larimore to submit fraudulent Paycheck Protection Program (PPP) loan applications.

There are no objections to the presentence report. The presentence report recommends a total offense level of 9 and a criminal history category of I, for an advisory guideline range of 4 to 10 months, in Zone B of the Sentencing Table. Placement in Zone B permits either (1) a sentence of imprisonment; or (2) a sentence of imprisonment that includes a term of supervised release

with a condition that substitutes community confinement or home detention; or (3) a sentence of probation that includes intermittent confinement, community confinement, or home detention.

Mr. Henderson urges the Court, under *United States v. Booker*, 543 U.S. 220 (2005), *Gall v. United States*, 552 U.S. 38 (2007), and *Kimbrough v. United States*, 552 U.S. 85 (2007), to vary slightly from the guidelines and impose a sentence of probation with no additional conditions.

II. Standards for Imposing Sentence

As the U.S. Supreme Court established in *Booker*, *Gall*, and *Kimbrough*, a sentencing Court has broad discretion to consider nearly every aspect of a particular case (and a particular defendant) in fashioning an appropriate sentence. “It has been uniform and constant in the federal judicial tradition for the sentencing judge to consider every convicted person as an individual and every case as a unique study in the human failings that sometimes mitigate, sometimes magnify, the crime and the punishment to ensue.” *Gall*, 552 U.S. at 52 (citing *Koon v. United States*, 518 U.S. 81, 113 (1996)). *Booker* made the U.S. Sentencing Guidelines (“Guidelines”) advisory rather than mandatory. *Booker*, 543 U.S. at 264. And in *Gall*, the Supreme Court took pains to point out that 18 U.S.C. § 3553(a)(3) “directs the judge to consider sentences other than imprisonment.” *Gall*, 552 U.S. at 59. The *Kimbrough* Court stressed that the sentencing judge is not bound by the Guidelines or Guidelines Policy Statements; rather, he may make his own policy judgments, even if those judgments are different than those provided for in the Guidelines. *Kimbrough*, 552 U.S. at 101. *See also*, *Spears v. United States*, 555 U.S. 261, 264-265 (2009).

The primary federal statutes governing sentencing in the federal district courts are 18 U.S.C. § 3553(a) and 18 U.S.C. § 3661. Section 3553(a) contains an introductory portion and seven subsections. The introductory portion directs the sentencing court, in determining a particular sentence, to consider: (1) the nature and circumstances of the offense and the history and

characteristics of the defendant; (2) the need for the sentence imposed to reflect the seriousness of the offense, to promote respect for the law, to provide just punishment for the offense, to afford adequate deterrence to criminal conduct, to protect the public from future crimes of the defendant, and to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner; (3) the kinds of sentences available; (4) the Guidelines; (5) Guidelines Policy Statements; (6) the need to avoid unwarranted sentence disparities; and (7) the need to provide restitution. The introductory portion of § 3553(a) also directs the sentencing court to “impose a sentence sufficient but not greater than necessary” to comply with the purposes of subsection (2). Indeed, this is “the overarching goal in federal sentencing.” *Freeman v. United States*, 564 U.S. 522, 131 S.Ct. 2685, 2692 (2011).

Of crucial importance, 18 U.S.C. § 3661 makes it clear that “no limitation shall be placed on the information concerning the background, character, and conduct of a person convicted of an offense which a court of the United States may receive and consider for the purpose of imposing an appropriate sentence.” Put simply, in addition to the § 3553(a) sentencing factors, the court may receive and consider *any* information concerning the defendant’s background, character, and conduct in imposing a sentence. The Supreme Court highlighted the centrality of this concept: “In particular, we have emphasized that ‘[h]ighly relevant—if not essential—to [the] selection of an appropriate sentence is the possession of the fullest information possible concerning the defendant’s life and characteristics.’ Permitting sentencing courts to consider the widest possible breadth of information about a defendant ‘ensures that the punishment will suit not merely the offense but the individual defendant.’” *Pepper v. United States*, 562 U.S., 131 S. Ct. 1229, 1240 (2011) (citations omitted).

III. The 3553(a) Factors suggest that a sentence of probation is reasonable.

Mr. Henderson's fraudulent conduct violated the law, and to promote respect for the law and provide specific deterrence, some measure of sanction is appropriate. However, this offense was non-violent, did not involve the distribution of narcotics or use of firearms, and involved a comparatively small sum of money by comparison to other fraud cases that come before this court.

Moreover, Mr. Henderson's lack of criminal history and the support letters provided with this memorandum show that he is a good candidate for supervision on probation without further conditions of confinement. He has completed drug treatment while on supervision on bond, and despite some violation reports for testing positive for THC, Mr. Henderson has been trouble-free while on bond.

Moreover, this Court has already sentenced several of Mr. Henderson's similarly situated codefendants to probation in this case. A sentence of probation is reasonable and sufficient but not greater than necessary to comply with Section 3553(a).

Respectfully submitted:

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CERTIFICATE OF SERVICE

I hereby certify that on the 26th day of June, 2024, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system for electronic delivery to all counsel of record.

/s/ J. Justin Johnston
Attorney for Defendant