

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

UNITED STATES OF AMERICA

v.

Criminal Action No. 2:24-cr-00113

CHRISTOPHER GRANT

**SENTENCING MEMORANDUM OF DEFENDANT CHRISTOPHER GRANT
AND MOTION FOR DOWNWARD VARIANCE OR DEPARTURE**

Now comes the defendant, Christopher Grant, by his undersigned counsel and files this sentencing memorandum for consideration by the Court in sentencing the defendant.

I. 18 U.S.C. § 3553(a) Factors for Consideration

With a criminal history category of II and a total offense level of eight, the advisory guideline imprisonment range set forth in the Presentence Investigation Report (“PSR”) is a term of four months to ten months with Zone B sentencing options. PSR ¶ 56. Mr. Grant respectfully requests the Court consider a variance or downward departure, moving Mr. Grant to Zone A of the guidelines and impose a sentence of probation and relies upon the following 18 U.S.C. § 3553(a) factors in support of a non-custodial sentence.

A. Character and History of the Defendant

Christopher Grant is 41 years old and has been a resident of West Virginia for nearly his entire life. Mr. Grant enlisted with the United States Army in 2002 but injured his knee while attending basic training in Fort Benning, Georgia. Due to this injury, Mr. Grant was discharged from the military with a general discharge. Since that time, Mr. Grant has continuously been employed full-time, almost exclusively working in the car sales industry. Mr. Grant is currently employed as the sales manager at Yes Chevrolet in Hurricane, West Virginia. A letter from the

owner, Keith Powell, is provided along with this memorandum stating that Mr. Grant is an excellent manager and asset, and he hopes Mr. Grant can continue to work there for years to come. See Letter Attached as Exhibit A. Mr. Powell further states that Mr. Grant can continue to work at Yes Chevrolet should he be given an alternative sentence by this Court. *Id.* Mr. Grant's only previous criminal history is for driving under the influence. Mr. Grant has been on pre-trial release since August 5, 2024. Since that time he has abstained from the use of any alcohol and has excelled while on supervision.

Other than the current criminal case, Mr. Grant lives a fairly normal life. He goes to work five days a week and works from 9 a.m. to 7 p.m. Mr. Grant almost always ends up staying late to work with customers or to help handle closing a deal, paperwork, etc., which means he is often working well over fifty hours a week. When Mr. Grant is not working, he spends the rest of his time at home or helping his family. Mr. Grant has the benefit of a very supportive family who he has a close relationship with. Mr. Grant's sister, Nichole Grant, lives in town. Mr. Grant is very close with Nichole Grant and she wrote a letter in support of Mr. Grant that is attached to this memorandum as Exhibit B. Ms. See Letter Attached as Exhibit B. Ms. Grant explains that she is a single mother of two children, and that Christopher Grant has always gone above and beyond to help her with her children and support her when she needs it. Nichole Grant's oldest son was born prematurely at twenty-six weeks and has significant special needs as a result. Nichole had to take time off from work when her son was born prematurely to care for him. That is when Christopher Grant paid for shirts and started a fundraiser to help pay for medical bills and to support his sister while she was caring for her child. Mr. Grant also steps in whenever Nichole Grant needs help with her children, and he will end up watching her four-year-old daughter for days at a time when her older son is hospitalized.

Nichole also sets forth for the Court that Mr. Grant's generosity has not stopped with her family. He has helped fund the Winfield Middle School dance when they lacked resources, secured donations for the Mountain State Autistic baseball team, and supported the Saint Albans Athletic programs. Mr. Grant also helped a friend of his by providing him with a place to stay during the COVID-19 pandemic, even when Mr. Grant was hurting financially himself.

All of the letters this Court received on behalf of Mr. Grant portray the same qualities and character attributes that Mr. Grant is known for. *See* Letters Attached as Exhibits C, D, E, F. Ms. Scarcella describes Mr. Grant as someone who is always there to support his friends and others in times of need, that he is hardworking and dedicated, and someone that she knows to be of great integrity and moral fiber. *See* letter C. Ms. Jones describes Mr. Grant as someone who has a strong sense of integrity, a hard worker, and devoted to his family, who he is a core resource for. Ms. Jones believes that Mr. Grant can learn from this experience and will be able to move forward in a positive direction. *See* Exhibit D. Ms. Justice describes Mr. Grant the same way as everyone else, someone who is selfless and generous, a hard worker, and always positively impacting those around him. *See* Exhibit E.

Mr. Grant has accepted full responsibility for his actions in this matter. As expressed in the letters attached, Mr. Grant's conduct in this matter was an anomaly and goes against what Mr. Grant believes in. This conduct was a lapse in judgment and is not indicative of the character that Mr. Grant has established in this community throughout the entirety of his life. Mr. Grant understands he made a serious mistake, has accepted responsibility prior to even being charged in this matter, and is dedicated to ensuring all of the funds are paid back.

B. Nature of the Offense

Prior to COVID-19, Mr. Grant was employed by Charleston Suzuki in Saint Albans. On

March 24, 2020, Mr. Grant was laid off from employment due to the negative effects on business during the Covid-19 pandemic. On March 25, 2020, Mr. Grant applied for unemployment compensation benefits which were approved. On or about April 24, 2020, Mr. Grant did return to work. However, it is important to note that while Mr. Grant was being paid his salary, a significant part of his earnings came from the commissions he earned on selling cars. During this time of the pandemic, people were not purchasing vehicles like they were prior to the pandemic due to the unprecedented nature of the COVID-19 pandemic. During this time, Governor Justice issued a Stay at Home Order that was effective March 24, 2020. See [Governor Issues Stay-at-Home Order \(wv.gov\)](https://dhhr.wv.gov/COVID-19/Pages/Governor-Issues-Stay-at-Home-Order.aspx)(<https://dhhr.wv.gov/COVID-19/Pages/Governor-Issues-Stay-at-Home-Order.aspx>).

This order was in effect until it was lifted on May 4, 2020 and Governor Justice issued a new order called the “Safer at Home” Order. See [Coronavirus in West Virginia: ‘Stay-at-Home’ order to be replaced by ‘Safer-at-Home’ order next week | WOWK 13 News \(wowktv.com\)](https://www.wowktv.com/news/west-virginia/coronavirus-in-west-virginia-stay-at-home-order-to-be-replaced-by-safer-at-home-order-next-week/)(<https://www.wowktv.com/news/west-virginia/coronavirus-in-west-virginia-stay-at-home-order-to-be-replaced-by-safer-at-home-order-next-week/>). Both of these Orders recommended that citizens stay at home with the exception of completing essential tasks and activities. Citizens of West Virginia were discouraged from going out and performing activities such as purchasing a car from a car dealership, as this was not an essential activity or service. As explained above, even though Mr. Grant did return to work, he was directly impacted financially by the COVID-19 pandemic and was unable to sell vehicles like he had previously done and relied upon.

During this hardship, Mr. Grant made a mistake and continued to apply for unemployment compensation and also applied for a PPP loan for an amount greater than he would have been entitled to. Mr. Grant is ashamed of his conduct and intends to fully pay back the money that was taken.

C. The need to avoid unwarranted sentencing disparities among defendants with similar records who have been found guilty of similar conduct.

Of the thirteen cases in this district the undersigned is aware that deal with financial crimes during and related to the COVID-19 pandemic where the defendant has been sentenced, the undersigned is only aware of one defendant who received a term of imprisonment. All of the other defendants who have been sentenced for similar conduct received varying terms of probation.

Rhonda and Robert Notgrass unlawfully obtained a combined \$26,917 of unemployment benefits that they were not entitled to. Rhonda Notgrass was sentenced to five years of probation by Judge Berger. *See United States v. Rhonda Notgrass*, 2:23-cr-00016 (S.D. W.Va. May 18, 2023)(Berger).¹ Robert Notgrass similarly received a sentenced of five years of probation. *See United States v. Robert Notgrass*, 2:23-cr-00017 (S.D. W.Va. May 18, 2023)(Berger).² The Notgrass' case was similar to Mr. Grants in that they received unemployment benefits that they were not entitled to.

Other defendants were responsible for greater amounts of loss and were given sentences of probation. Alexis Ransom plead guilty to wire fraud for PPP loans that she received. Ms. Ransom stipulated that she received at least \$42,250.00 through her scheme. Ms. Ransom was sentenced to five years of probation by Judge Faber. *See United States v. Alexis Ransom*, 2:22-cr-00122 (S.D. W.Va. January 10, 2023)(Faber).³ Malik Breckenridge fraudulently obtained \$41,666 in PPP loans and received five years of probation (with eight months home confinement).⁴ *See United States v. Malik Breckenridge*, Case No. 2:22-cr-00084 (S.D. W.Va. Nov. 17, 2022) (Berger).

Calvin Butler had a loss amount of \$16,040.00 and was sentenced before Judge Goodwin

¹ Rhonda Notgrass's advisory guideline range was 0 to 6 months and in Zone A.

² Robert Notgrass's advisory guideline range was 0 to 6 months and in Zone A. However, it should be noted that Mr. Notgrass had a prior felony for stealing jewelry, but this only added one criminal history point.

³ Ransom's advisory guideline range was 8 to 14 months and in Zone B.

⁴ Breckenridge's advisory guideline range was 8 to 14 months in Zone B.

to five years of probation with the first six months to be served on home detention. *See United States v. Calvin Butler*, 2:22-cr-0016 (S.D. W.Va. May 18, 2023) (Goodwin).⁵ Tiffany Bowlin was also sentenced to five years of probation, including four months of home confinement, for her PPP loan loss of \$20,833. *See United States v. Tiffany Bowlin*, 2:22-cr-00205 (S.D. W.Va. May 10, 2023).⁶ (Copenhaver). Aalik Wilsher was sentenced to three years of probation and had a restitution amount of \$20,459.33. *See United States v. Aalik Wilsher*, 2:23-cr-00051 (S.D. W.Va. August 9, 2023) (Goodwin). Daniel Satow had a loss amount of \$16,000 and his advisory guideline range was four to ten months. *See United States v. Daniel Satow*, 2:23-cr-00056 (S.D. W.Va. August 10, 2023) (Johnston). Mr. Satow was sentenced to five years of probation. Tamir Pratt had a loss amount of \$20,832 and was sentenced to two years of probation. *See United States v. Tamir Pratt*, 2:23-cr-00038 (S.D. W.Va. September 28, 2023) (Goodwin). Imeesha Bradley was sentenced to five years of probation and had a loss amount of \$18,703. *See United States v. Imeesha Bradley*, 2:23-cr-00112 (S.D. W.Va. January 9, 2024) (Faber).⁷ Sean Boyd was sentenced to five years of probation and had a loss amount of \$23,817.79. *See United States v. Sean Boyd*, 2:23-cr-00123 (S.D. W.Va. February 21, 2024) (Copenhaver).⁸

Finally, Mr. Grant's case is distinguishable from the only defendant the undersigned is aware of who has received a term of imprisonment for a COVID-19 related crime. Lydia Spencer pled guilty to conspiracy to commit bank fraud, but she was also facing a felony charge for felon in possession of a firearm at the same time. Ms. Spencer's advisory guideline range was six to twelve months and she was sentenced to four months imprisonment. There are other distinguishing factors between Spencer's case and Mr. Grant's case.

⁵ Butler's advisory guideline range was 6 to 12 months in Zone B.

⁶ Bowlin's advisory guideline range was 4 to 10 months in Zone B.

⁷ Bradley's advisory guideline range was 0-6 months in Zone A.

⁸ Boyd's advisory guideline range was 0-6 months and in Zone A.

Many of the defendants listed above had similar (and some even worse) guideline ranges and were sentenced to a term of probation. Mr. Grant respectfully requests to be sentenced to a term of probation, which would be consistent with other similarly situated defendants in this district. In addition, in all of these cases except one - *United States v. Malik Breckenridge*, Case No. 2:22-cr-00084 – the Court determined that the defendants were unable to pay post-judgment interest and waived interest on the restitution amount pursuant to 18 U.S.C. § 3612(f)(3)(A). The sentencing court has discretion “to waive or limit the payment of interest upon a finding that the defendant is unable to pay interest.” *United States v. Coleman*, 319 F. App’x 228, 231 (4th Cir. 2009)(per curiam).⁹ Mr. Grant is currently indigent and owes a large amount of debt, as set forth in the PSR, and respectfully asks for the Court to make a similar finding in his case.

D. Kinds of Sentences and Ranges Established by the Guidelines and Need for the Sentence to Reflect the Seriousness of the Offense, Promote Respect for the Law, and Provide Just Punishment.

Mr. Grant has a total offense level of 8 and is in Criminal History Category II, yielding an advisory guideline sentencing of four to ten months. The applicable guideline range is in Zone B of the Sentencing Table and a term of probation falls within the sentencing options provided by Zone B. In the present case there is no mandatory minimum sentence of imprisonment required. Mr. Grant has a stable job and a demonstrated history of employment. The United States Supreme Court has previously acknowledged that probation is a serious sentence. *See Gall v. United States*, 552 U.S. 38,48 (2007) (“Offenders on probation are nonetheless subject to several standard conditions that substantially restrict their liberty.”); *United States v. Knights*, 534 U.S. 112, 119 (2001) (“Inherent in the very nature of probation is that probationers do not enjoy the absolute

⁹ If the sentencing court makes such a finding, the statute provides three options: “(A) waive the requirement for interest; (B) limit the total of interest payable to a specific dollar amount; or (C) limit the length of the period during which interest accrues.” 18 § 3612(f)(3).

liberty to which every citizen is entitled.” (quoting *Griffin v. Wisconsin*, 483 U.S. 868, 874 (1987))). Mr. Grant will now be saddled with a felony for the rest of his life. An alternative sentence would permit Mr. Grant to continue working and be self-supporting rather than a burden on taxpayers. Saddling Mr. Grant with a term of imprisonment in this case would not be beneficial for him or society as a whole. A term of imprisonment would only keep Mr. Grant from continuing to work and pay towards the restitution that is owed. A term of probation would also sufficiently reflect the seriousness of Mr. Grant’s crime, constitute just punishment, protect public safety, and serve as an effective deterrent. *See Gall*, 552 U.S. 38.

II. Objections to the Presentence Report

Mr. Grant only has one outstanding objection to the PSR. However, Mr. Grant agrees with the probation officer’s response that the sentencing court has the ability to determine whether or not to apply interest. As set forth above, Mr. Grant is asking this Court to waive the requirement for interest in this matter. Mr. Grant’s objection to the language used was to preserve his request that the Court waive the interest requirement.

III. Motion for Downward Departure or Variance

Mr. Grant’s criminal history category II disproportionately exposes him to Zone B of the Sentencing Table as opposed to Zone A. United States Sentencing Guidelines section 4A1.3 provides that a downward departure may be warranted “if reliable information indicates that the defendant’s criminal history category substantially over-represents the seriousness of the defendant’s criminal history or the likelihood that the defendant will commit other crimes, a downward departure may be warranted.” USSG § 4A1.3(b)(1). Such a departure may be warranted “if, for example, the defendant had two minor misdemeanor convictions close to ten years prior to the instant offense and no other evidence of prior criminal behavior in the intervening period.”

USSG § 4A1.3, comment. (n.3). In Mr. Grant's case, he has two misdemeanor driving offenses for driving under the influence. Mr. Grant's first misdemeanor conviction is close to ten years prior to the offense conduct in this case and is now over twelve years old. If Mr. Grant was not given a criminal history point for this driving offense, he would be in criminal history category I. This would change Mr. Grant's advisory guideline range to zero to six months and place him in Zone A of the sentencing table. This would more accurately reflect Mr. Grant's criminal history and the likelihood of him reoffending.

Even if this Court is not persuaded to grant a downward departure, Mr. Grant respectfully requests a downward variance that would place him in Zone A of the sentencing table. Mr. Grant's case involves mitigating factors and circumstances as outlined throughout this Memorandum and Mr. Grant respectfully requests this Court to consider a downward variance from the advisory guideline range. Such a sentence would enjoy a presumption of reasonableness. "Any sentence that is within or below a properly calculated Guidelines range is presumptively [substantively] reasonable. Such a presumption can only be rebutted by showing that the sentence is unreasonable when measured against the 18 U.S.C. § 3553(a) factors." *United States v. Louthian*, 756 F.3d 295, 306 (4th Cir. 2014). In this case, a downward variance would be sufficient, reasonable, and fair in light of the unique circumstances surrounding this case and the mitigating circumstances present. Moreover, such a sentence would fully comply with the statutory purposes of 18 U.S.C. § 3553(a)(2) and has legal support in the cases cited for the Court.

IV. Request for Sentencing

Based on the foregoing, Mr. Grant respectfully requests a downward variance or departure and a sentence of probation or any alternative sentence that this Court deems sufficient to achieve the statutory sentencing purposes of 18 U.S.C. § 3553(a).

V. Time for Sentencing Hearing

The defendant does not currently intend to call any witnesses and believes sentencing can likely be concluded in one hour.

VI. Conclusion

For all the reasons set forth above, the defendant respectfully requests the Court to sentence Mr. Grant to a term of probation or any alternative sentence that this Court deems sufficient to achieve the statutory sentencing purposes of 18 U.S.C. § 3553(a).

CHRISTOPHER GRANT,

By Counsel,

/s/Paul E. Stroebel

Paul E. Stroebel, Esquire (WV BAR 13269)

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CHRISTOPHER GRANT

CERTIFICATE OF SERVICE

I, PAUL E. STROEBEL, hereby certify that a true and correct copy of the foregoing *“Defendant Christopher Grant’s Sentencing Memorandum”* has been served upon all counsel of record this 7th day November, 2024, to the following:

Andrew Tessman, Esquire
Assistant United States Attorney
300 Virginia Street E.; Suite 4000
Charleston, WV 25301

/s/Paul E. Stroebel
Paul E. Stroebel, Esquire