

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA

v.

HARRESCIA HOPKINS

Criminal Action No.

1:22-CR-284-SEG

Supplemental Sentencing Memorandum

The United States of America, by Ryan K. Buchanan, United States Attorney, and Garrett L. Bradford, Assistant United States Attorney for the Northern District of Georgia, files this Supplemental Sentencing Memorandum. For the reasons stated below, the government requests that the Court impose a low-end Guidelines sentence of eight months of imprisonment instead of the six months requested in its initial sentencing memorandum. (Doc. 23).

1. Anticipated Guidelines Amendment for Zero-Point Offenders

Hopkins noted in her supplemental sentencing memorandum that the preliminary Amendments to the Sentencing Guidelines released in April contemplate a two-level reduction for certain defendants with no criminal history points. (Doc. 24; Doc. 24-2 at 1-2). Though those amendments are not yet in effect, the government does not object to Hopkins receiving a two-level downward variance at sentencing to receive the anticipated benefit of the amendment as long as the record is clear that Hopkins waives the right to seek a

further sentence reduction under 18 U.S.C. § 3582(c)(2) based on Section 4C1.1 once the amendment is adopted.

2. Acceptance of Responsibility

The government now objects to Hopkins receiving a two-level downward adjustment for acceptance of responsibility pursuant to § 3E1.1(a) because multiple aspects of her recent conduct does not “clearly demonstrate[] acceptance of responsibility for [her] offense.” *See* U.S.S.G. § 3E1.1(a); *see also* Doc. 19-1 ¶ 15 (“[T]he Government will not be required to recommend acceptance of responsibility if, after entering this Plea Agreement, the Defendant engages in conduct inconsistent with accepting responsibility.”).

First, although Hopkins agreed to pay restitution as a part of her plea agreement, (doc. 19-1 ¶¶ 19, 25), she has not yet made any attempt to make payments towards restitution nor even engaged in the government’s attempt to explore future payment plans. *See* U.S.S.G. § 3E1.1 App. n.1(C) (one factor for assessing acceptance of responsibility is a defendant’s “voluntary payment of restitution prior to adjudication of guilt”).

Second, in the course of investigating Hopkins’ assets to enable the government to collect restitution for her two fraudulent Paycheck Protection Program loans (an extra exercise and expenditure of resources the government had to engage in because Hopkins would not negotiate a plan to pay restitution), the government discovered that Hopkins had taken out a *third* fraudulent Covid-relief loan from a separate program. Specifically, on approximately July 23, 2020, Hopkins applied for and received a \$4,000 loan through the U.S. Small Business

Administration's Economic Injury Disaster Loan (EIDL) program. Such loans were intended to help small businesses recover from the economic impacts of the COVID-19 pandemic.¹ Hopkins – who didn't own any business or have any employees – received the \$4,000 of fraudulent EIDL proceeds in her bank account on July 27, 2020. As a result, Hopkins' total loss amount should be increased to \$45,655 and restitution to the SBA should be increased by \$4,000. (PSR ¶¶ 29, 33). Hopkins never disclosed this loan to the government in the course of this case or in discussions about restitution, and those fraudulent gains would not be recovered if the government had not fortuitously discovered the additional loan from a separate program at the last minute. *See* U.S.S.G. § 3E1.1 App. n.1(E) (one factor for assessing acceptance of responsibility is a defendant's "voluntary assistance to authorities in the recovery of the fruits and instrumentalities of the offense").

Third, the government has learned that Hopkins is wasting government resources by appealing her termination from the Department of Justice following her felony plea in the current case. Specifically, the Bureau of Prisons terminated Hopkins' employment after her conviction, and Hopkins is appealing that action before the U.S. Merit Systems Protection Board. As a result, the BOP and MSPB are forced to expend additional resources to finalize Hopkins' termination from her law enforcement job while Hopkins is claiming to this Court that she is fully accepting responsibility for her actions. *See* U.S.S.G. § 3E1.1 App. n.1(F) (one

¹ *See* <https://www.sba.gov/funding-programs/loans/covid-19-relief-options/eidl> (last visited June 5, 2023).

factor for assessing acceptance of responsibility is a defendant's "voluntary resignation from the office or position held during the commission of the offense").

Fourth, and most concerning, is that in her appeal to the MSPB Hopkins claimed that her guilty plea in this case was the product of government coercion and might be dismissed by this Court. (*See* Doc. 31 at 4-5.) That serious allegation triggered a continuance of Hopkins' sentencing hearing and three subsequent status conferences. (*See* Doc. 27; Doc. 28; Doc. 30). Eventually Hopkins denied, under oath, that anyone had coerced, threatened, forced, or intimidated her into pleading guilty, and confirmed that she did not want to withdraw her plea. (Doc. 31 at 8-9). Notably, however, Hopkins did not deny that she had made those claims to the MSPB, dispute the MSPB judge's summary of her allegations, or state that the MSPB judge misunderstood what she was alleging. (*See id.* at 8 ("Is there anything that you would like to say on the record in this court about any allegation that your guilty plea in this case was obtained by coercion, intimidation, or any other unfair tactic? A: No.")). The logical conclusion is that Hopkins made knowingly false claims about her guilt to the MSPB and falsely portrayed herself as a victim, assuming that this Court would not find out what she said in that separate proceeding, in an effort to continue collecting a paycheck as a law enforcement officer for as long as possible. That conduct is not consistent with clearly demonstrating acceptance of responsibility for the offense. *See* U.S.S.G. § 3E1.1(a); *see also* Doc. 19-1 ¶ 15 ("[B]y way of example only, should the Defendant falsely deny or falsely attempt to minimize the Defendant's

involvement in relevant offense conduct, [or] give conflicting statements about the Defendant's involvement, . . . the Government will not be required to recommend acceptance of responsibility.").

Finally, Hopkins' argument for sentencing leniency based on attacking her prosecution as unfair because "similarly situated defendants are not being prosecuted for this conduct," demonstrates a lack of remorse and rings hollow. (Doc. 22 at 2). Hopkins' implication – that the government should turn a blind eye to over \$40,000 of repeated fraud on an emergency fund by a federal law enforcement officer and employee of the Department of Justice – shows that she does not understand or regret the seriousness of her crime by someone in her position. Further, her attempt to portray herself as a victim is an attempt to deflect blame rather than admit and atone for the error of her ways.

3. An Appropriate Sentence

With the revisions now recommended by the government (denial of a two-level downward adjustment for acceptance of responsibility but granting a two-level downward variance in contemplation of the upcoming Guidelines amendments) Hopkins will be facing a Guidelines range of 8-14 months. The government believes a sentence of incarceration at the low end of that range is appropriate and not greater than necessary given all the factors in 18 U.S.C.

§ 3553(a). A sentence of probation is not warranted by the facts of the offense, including Hopkins' conduct during the crime and after her plea in this case.²

As explained in the government's initial sentencing memorandum, Hopkins' conduct was not an isolated single occurrence by someone who didn't understand the possible consequences of her decision; Hopkins was a Department of Justice employee and law enforcement officer, with a degree in criminal justice, and interacted daily with other individuals who were living with the consequences of their crimes. She earned a good salary in a stable job, and yet she committed flagrant fraud on three separate occasions on two emergency relief programs with limited funding: in July 2020, August 2020, and again in January 2021.³ She then spent the money on a new car, landscaping for her house, a Caribbean cruise and other travel, restaurants, and retail goods. At a time of historic suffering, Hopkins indulged her greed and stole a share of emergency funds for her own use.

When caught and held accountable, Hopkins initially seemed remorseful and ready to accept responsibility for her actions, leading the government to give her the benefit of the doubt and initially recommend a below-Guidelines sentence of six months. However, she has since proven those assumptions wrong when she

² Indeed, a sentence of probation is not statutorily allowed for a Class B offense, so some term of imprisonment must be ordered. *See* 18 U.S.C. § 3561(a)(1); U.S.S.G. § 5B1.1(b)(1).

³ As explained above, the third instance of fraud on the EIDL program was only recently discovered and was unknown at the time of the government's initial sentencing memorandum.

failed to pay restitution, failed to disclose a third fraudulent loan, sought to minimize her conduct by playing a victim of unfair prosecution, sought to prolong her employment with the Department of Justice through falsehoods, and falsely claimed in another legal venue that her guilty plea was coerced and may be dismissed. A serious sentence is necessary to reflect Hopkins' conduct, her lack of remorse, and her persistent reluctance to accept responsibility for the true scope of her conduct.

Conclusion

For the reasons stated above, the government recommends that the Court sentence Hopkins to a term of imprisonment of eight months.

Respectfully submitted,

RYAN K. BUCHANAN
United States Attorney

/s/GARRETT L. BRADFORD
Assistant United States Attorney
Georgia Bar No. 074374
Garrett.Bradford@usdoj.gov

600 U.S. Courthouse, 75 Ted Turner Drive S.W., Atlanta, GA 30303
(404) 581-6000 fax (404) 581-6181

Certificate of Service

The United States Attorney's Office served this document today by filing it using the Court's CM/ECF system, which automatically notifies the parties and counsel of record.

June 6, 2023

/s/ GARRETT L. BRADFORD

GARRETT L. BRADFORD

Assistant United States Attorney