

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

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 2:25-cr-00057

JAMES LOMAX

SENTENCING MEMORANDUM OF THE UNITED STATES

The government requests that this Court sentence defendant James Lomax to a guideline sentence of imprisonment, 3 years of supervised release, \$13,312 in restitution, and a \$100 special assessment.

I. Offense of Conviction and Statutory Penalties.

On April 23, 2025, defendant James Lomax pleaded guilty to 18 U.S.C. § 641 (embezzlement, theft or conversion of public money or property). As indicated in the PSR, Section 641 carries a maximum sentence of ten years of imprisonment, a \$250,000 fine, three years of supervised release, \$100 special assessment, and an order of restitution.

II. The United States Sentencing Guidelines.

The U.S. Probation Office properly calculated the total offense level as 6, *see* PSR ¶ 33, and the Criminal History Category as II. *See* PSR ¶ 40. Based on these calculations, Lomax's advisory guideline range of imprisonment is 1-7 months. *See* PSR ¶ 62.

III. The Statutory Sentencing Factors.

A. The nature and circumstances of the offense.

As detailed in the PSR, Lomax was a sales associate with Charleston Suzuki in St. Albans, West Virginia, prior to the COVID-19 pandemic. When the COVID-19 pandemic began in March 2020, Lomax was laid off, and he properly applied for unemployment benefits from Workforce West Virginia on March 24, 2020. Following his initial approval for \$424 in weekly unemployment benefits, Lomax was required to log on to the Workforce West Virginia website and re-certify his eligibility for continued unemployment benefits, including certifying that he was not employed and was actively searching for work, among other certifications.

Lomax returned to work at Charleston Suzuki on April 18, 2020. By this time, Lomax was receiving an additional \$600 per week authorized under the Federal Pandemic Unemployment Compensation (FPUC) program, which was part of the Coronavirus Aid, Relief, and Economic Security (CARES) Act. This raised Lomax's weekly unemployment benefits to \$1,024 per week. After returning to work, Lomax continued to log on to the Workforce West Virginia website for thirteen consecutive weeks to fraudulently recertify his eligibility for unemployment benefits. Lomax's fraudulent certifications resulted in a loss of \$13,312 to Workforce West Virginia and FPUC.

Lomax's sentence should reflect the nature and circumstances of his serious offense conduct. This was not a one-time lapse of judgment or "spur of the moment" type offense. Rather, the offense conduct was pervasive, spanning thirteen straight weeks of false certifications, which were designed to deceive WorkForce West Virginia into paying out unemployment funds that Lomax was not entitled to following his return to employment at Charleston Suzuki.

B. History and characteristics of the defendant.

In 2010, Lomax was convicted in Putnam County, West Virginia of sexual abuse in the third degree after being indicted for having sexual intercourse with a 12-year-old when he was 18 years old. PSR ¶ 35. He was originally sentenced to 90 days' suspended sentence and two years' probation, but his probation was revoked shortly thereafter for failing to register as a sex offender. PSR ¶¶ 35-36. Lomax also has pending charges for failing to register as a sex offender and driving on a suspended/revoked license. PSR ¶¶ 44-45.

C. Specific deterrence.

The need for the sentence to provide specific deterrence to this particular defendant also weighs heavily in favor of a term of incarceration. Lomax's conduct in this case, as well as his unrelated past involvements with the law, demonstrate a troubling pattern of flaunting rules that apply equally to others and an intentional disregard of court ordered consequences flowing from his own conduct. Because it appears he lacks respect for the law, a sentence of incarceration is needed to specifically deter Lomax from the commission of further crimes.

D. General deterrence.

In imposing a sentence in this case, this Court's sentence should also send a message to others throughout West Virginia (and the United States) engaged in or considering engaging in unemployment compensation fraud. Lomax took advantage of a system that was designed to help vulnerable people during a pandemic to personally benefit himself. The type of fraud that Lomax engaged in puts stress on the entire unemployment compensation system and made it more difficult for legitimate claimants to receive funds during a time of need.

A guideline sentence of imprisonment will dissuade others from such criminal conduct. Even a small period of confinement sends a warning message to others that there are consequences for fraudulently taking government money that they are not entitled to receive.

E. The need to provide restitution to victims.

Restitution is applicable for this offense. *See* 18 U.S.C. § 3663A. The amount of restitution is \$13,312 and is owed to Workforce West Virginia. *See* PSR ¶¶ 18-20, 118-19. The address is: Workforce West Virginia, Integrity Section – 9737, Attn: Andy Osborne, PO Box 2393, Charleston, WV 25301.

IV. Conclusion

A sentence of imprisonment within the sentencing guideline range is sufficient, but not greater than necessary, to meet the goals of sentencing. The United States does not anticipate calling witnesses at the hearing. It estimates that the hearing will take 30 minutes.

Respectfully submitted,

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CERTIFICATE OF SERVICE

It is hereby certified that the foregoing “SENTENCING MEMORANDUM OF THE UNITED STATES” has been electronically filed and service has been made on opposing counsel by virtue of such electronic filing this 24th day of July, 2025.

/s/Andrew J. Tessman
Assistant United States Attorney