

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

BLUEFIELD DIVISION**

UNITED STATES OF AMERICA

v.

Criminal No. 1:24-00036

ANNA MARIE OMAR

DEFENDANT'S SENTENCING MEMORANDUM

The defendant, Anna Omar, by counsel, Assistant Federal Public Defender Clint Carte, submits this memorandum for the Court's consideration at her upcoming sentencing hearing.

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

With a criminal history category of II and a total offense level of 9, the advisory guideline range set forth in the PSR recommends a term of imprisonment between six and twelve months. PSR ¶ 67. Ms. Omar respectfully requests the Court impose a variant sentence of probation. She relies upon the following 18 U.S.C. § 3553(a) factors in support of a non-custodial sentence.

A. The nature and circumstances of the offense.

Enticed by the potential of an easy loan and quick cash, Ms. Omar applied for a loan through the Paycheck Protection Program ("PPP"). Her loan application claimed reported earnings of \$152,000 in tax year 2020, which even the most basic

loan verification procedures would have easily proven false¹—she ultimately obtained a \$20,833 loan. She accepts full responsibility for her criminal conduct in this matter and deeply regrets her decision to engage in this fraud.

B. The history and characteristics of Ms. Omar.

Ms. Omar has three prior conviction that count for criminal history points – all substance abuse or substance abuse-related misdemeanors that took place in one year. It was during this same one-year period, from September 2020 to September 2021, that she submitted her fraudulent PPP application. That year was the culmination of her struggles with addiction and the trauma that pervaded her early life.

Her father was cruel and abusive in a multitude of ways. He would beat her in front of his friends. He would hit her in the face hard enough to bust her lip open.

¹ Congress and the SBA removed controls and safeguards from the PPP loan program in order to flood the economy with money as quickly as possible. See Hannibal Ware, *Independent Auditor's Report on SBA's FY 2021 Financial Statements*, Report 22–05 (November 15, 2021) (concluding that the SBA “did not adequately design and implement controls to ensure PPP loans guarantees approved [were in existence and accurate.]”); see also Nick Schwellenbach, Neil Gordon, Sean Moulton, and Leslie Garvey, *The Great Pandemic Swindle: Feds Botched Review of Billions in Suspect PPP Loans*, Project on Government Oversight (October 6, 2022), available at <https://www.pogo.org/investigation/2022/10/the-great-pandemic-swindle-feds-botched-review-of-billions-in-suspect-ppp-loans>. As a result, private loan servicers were able to reap millions in profits—the more loans they issued, the more processing fees they received—by focusing their budgets on advertisements to drive up applications while spending next to nothing on fraud detection and prevention. See Select Subcommittee on the Coronavirus Crisis, *We Are Not the Fraud Police: How Fintechs Facilitated Fraud in the Paycheck Protection Program*, Staff Report (December 2022); Ken Dilanian and Laura Strickler, *Biggest Fraud in a Generation: The Looting of the COVID Relief Plan Known as PPP*, NBC News (March 28, 2022), available at <https://www.nbcnews.com/politics/justice-department/biggest-fraud-generation-looting-covid-relief-program-known-ppp-n1279664>.

He would sexually abuse her. Though her mother did not or could not protect her, Ms. Omar does not blame her, as her mother was mentally handicapped. To further abuse the children, her father would purposely keep food scarce around the house, not because resources were lacking, but simply to exert harsh control.

Unsurprisingly, Ms. Omar has no positive childhood memories. Like many with tumultuous upbringings, she turned to drugs and alcohol in an effort to self-medicate and forget. The same father who abused her also introduced her to alcohol, and as a two-year old no less. Prior to her arrest, Ms. Omar was using methamphetamine and heroin daily. She is very interested in mental health treatment to confront and address the trauma that led to her substance abuse and has been a chief contributing factor in her poor decisions.

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

To date, the undersigned is aware of ten defendants in this district who have been sentenced for similar conduct. All but one² of these defendants received a sentence of probation, and the nine defendants who received probationary sentences are listed below:

<u>Case</u>	<u>Number</u>	<u>Judge</u>	<u>Loss</u>	<u>Probationary Term</u>
BRECKENRIDGE	2:22-00084	Berger	\$41,666	5 yrs, 8 mos HC
BOWLIN	2:22-00205	Copenhaver	\$20,833	5 yrs, 4 mos HC

² See *United States v. Lydia Spencer*, Criminal No. 2:24-00053 (S.D. W.Va. July 25, 2024) (Berger, J.) (sentencing defendant to a term of four months of imprisonment and a three-year term of supervised release with a total loss amount of \$36,814.13).

BUTLER	2:22-00161	Goodwin	\$16,040	5 yrs, 6 mos HC
RANSOM	2:22-00122	Faber	\$42,250	5 yrs
WILSHER	2:23-00051	Goodwin	\$20,459	3 yrs
SATOW	2:23-00056	Johnston	\$16,000	5 yrs
PRATT	2:23-00038	Goodwin	\$20,832	2 yrs
BRADLEY	2:23-00112	Faber	\$18,703	5 yrs
BOYD	2:23-00123	Copenhaver	\$23,818	5 yrs

In addition, in all of these cases save one—*United States v. Malik Breckenridge*, No. 2:22-00084—the Court determined that the defendant was unable to pay post-judgment interest and waived interest on the restitution amount pursuant to 18 U.S.C. § 3612(f)(3)(C).³ Ms. Omar respectfully requests such a finding in her case.

D. The need for the sentence to reflect the seriousness of the offense, promote respect for the law, and provide just punishment.

A sentence of probation adequately reflects the seriousness of Ms. Omar's conduct and provides just punishment for her offense. As the Supreme Court has recognized, a sentence of probation is “a substantial restriction of freedom.” *Gall v. United States*, 552 U.S. 38, 48 (2007). Ms. Omar will be closely monitored by a

³ Interest kicks in automatically for “any fine or restitution of more than \$2,500, unless the fine is paid in full before the fifteenth day after the date of the judgment.” 18 U.S.C. § 3612(f)(1). 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). 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 U.S.C. § 3612(f)(3).

Probation Officer for the entirety of her sentence, and she is very aware that if she were to violate any term of probation, the Court could re-sentence her to a term of imprisonment within, or above, her suggested guideline range. Ms. Omar intends to focus on her rehabilitation by continuing to work, pay restitution, and get the treatment she needs to address the traumatic issues that have impacted her life.

II. Conclusion

For the forgoing reasons, Ms. Omar submits that a probationary sentence is sufficient, but not greater than necessary, to achieve the statutory sentencing purposes of 18 U.S.C. § 3553(a).

III. Time Needed for Sentencing

Ms. Omar does not anticipate calling any witnesses to testify at the upcoming sentencing hearing and believes the hearing will last approximately thirty minutes.

Date: February 5, 2025

Respectfully submitted,

ANNA MARIE OMAR

By Counsel

WESLEY P. PAGE
FEDERAL PUBLIC DEFENDER

s/ Clint Carte

Clint Carte, WV Bar No. 12054
Assistant Federal Public Defender
300 Virginia Street, East, Room 3400
Charleston, West Virginia 25301
Telephone: (304) 347-3350
Facsimile: (304) 347-3356
Email: clint_carte@fd.org