

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

UNITED STATES OF AMERICA

Plaintiff,

v.

Criminal Action No. 2:23-cr-00038

TAMIR PRATT,

Defendant.

SENTENCING MEMORANDUM OF DEFENDANT TAMIR PRATT

Now comes the defendant, Tamir Pratt, by his undersigned counsel and files this sentencing memorandum for consideration of the Court in sentencing the defendant.

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

With a criminal history category of I and an adjusted offense level of eight, the advisory guideline imprisonment range set forth in the Presentence Investigation Report (“PSR”) is a term of zero month to six months with Zone A sentencing options. PSR ¶ 62. Mr. Pratt respectfully requests the Court impose a within -Guidelines 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

Tamir Pratt is 21 years old and has been a resident of Charleston, West Virginia for approximately two years. Mr. Pratt is in a relationship with Zaqisia Sayles and the two have two children together. Mr. Pratt’s older son, Amir Pratt is just over a year old, and Amari Pratt was born in July of this year. Mr. Pratt is currently employed full-time at REM West Virginia as a direct support professional (caregiver). A reference letter from his program director is provided along with this memorandum, stating that Mr. Pratt is a good employee and that they hope to keep

him for years to come. Mr. Pratt has a consistent history of employment with previous jobs at Express Employment Professionals and McDonalds. Additionally, Mr. Pratt's only previous criminal history is a juvenile matter.

Mr. Pratt was born in Philadelphia, Pennsylvania and had a difficult childhood. When Mr. Pratt was a small child, his mother suffered a crippling stroke that left her unable to care for him and his siblings. Mr. Pratt was in the foster system for a short time until he went to live with his grandmother who raised him. Mr. Pratt's father was in and out of prison during his childhood and did not provide much support. Mr. Pratt's mother passed away from cancer when he was around thirteen years old. Mr. Pratt completed school only through the ninth grade. Mr. Pratt recently applied to the Charleston Job Corps Center in order to obtain his GED and complete a carpentry certification.

Other than the current criminal case, Mr. Pratt lives a fairly normal life. He goes to work Monday through Friday and spends the rest of his time with his two young children. Should Mr. Pratt be sentenced to time incarcerated it would undoubtedly have a very negative effect on his young children. "Incarceration of a parent normally causes major negative economic, social, and psychological consequences to the child, and may have life-long [adverse] repercussions." *United States v. G.L.*, 305 F.R.D. 47, 50 (E.D.N.Y. 2015)(quoting collection of literature). "For children under the age of five, both lack of parent-child bonding and disruption of an existing bond can create difficulties in cognitive and language development as well as in forming relationships and regulating emotions later in life." *United States v. G.L.*, 305 F.R.D. 47, 50 (E.D.N.Y. 2015)(quoting Sarah Abramowicz, *Beyond Family Law*, 63 Case W. Res. L. Rev. 293, 321 (2012)). Both of Mr. Pratt's children are under 18 months of age and any time spent away from them would have a very negative impact on the children and their relationship with Mr. Pratt, as pointed out

by the literature.

B. Nature of the Offense

Prior to COVID-19, Mr. Pratt was employed through a Temp Agency. Mr. Pratt had a job at the beginning of the pandemic through the Temp Agency, but the project he was working on eventually ended. Mr. Pratt remained enrolled at the Temp Agency, but after the pandemic began and his last job ended, he never received another call for employment opportunities. There is likely a correlation between Mr. Pratt not receiving any further employment opportunities and the shutdown of the country due to the unprecedented COVID-19 pandemic. It was around this time that Mr. Pratt started seeing social media posts about “free money” and quick and easy loan qualifications. Mr. Pratt saw these posts and articles everywhere, and it seemed as though everyone was receiving a loan.

In April of 2021, Mr. Pratt saw an Instagram story from an unknown person whose username was “4drippz” that offered to complete the loan application for Mr. Pratt in exchange for part of the money that was received. Mr. Pratt provided this account with his personal information and “4drippz” filled out the loan application. Mr. Pratt signed off on this false information, provided a picture and his identification and the loan was approved. Once the loan was approved, \$20,832 was placed into Mr. Pratt’s account. Mr. Pratt spent \$4,983.43 of the loan he received. It is important to note that at the time Mr. Pratt applied for his PPP loan, on April 24, 2021, he was only eighteen years old. As discussed above, Mr. Pratt had only completed the 9th grade as well. After receiving the loan, Mr. Pratt was notified by the bank they were freezing his account to investigate his loan. Mr. Pratt told the bank that he would like for them to send the remaining loan proceeds back to the lender. Mr. Pratt did not submit any follow up requests to the SBA to forgive the PPP loan. When investigators first met with Mr. Pratt, he was completely transparent and

forthcoming about his involvement. Mr. Pratt is ashamed of his conduct and intends to fully pay back the PPP loan funding.

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 not aware of any other defendants in this district who have received a term of imprisonment who have been sentenced for similar conduct. Mr. Pratt's half-brother, Calvin Butler, was sentenced before this Court 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, J.). Mr. Butler's case is almost identical to Mr. Pratt's, with the largest differences being Mr. Pratt spent less of the loan money he received, and Mr. Butler's advisory guideline range was 6 to 12 months. According to Court documents, Malik Breckenridge fraudulently obtained \$41,666 in PPP loans – roughly double Mr. Pratt's loss amount – and received five years of probation.¹ *See United States v. Malik Breckenridge*, Case No. 2:22-cr-00084 (S.D. W.Va. Nov. 17, 2022) (Berger, J.). Alexis Ransom was sentenced for a loss amount of \$42,250 and received a sentence of five years of probation.² *See United States v. Alexis Ransom*, 2:22-cr-00122 (S.D. W.Va. Feb. 7, 2023) (Faber, J.). 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)³ (Copenhaver, J.). Finally, in another case in front of this Court, 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, J.).

¹ Breckenridge's advisory guideline range was 8 to 14 months in Zone B.

² Ransom's advisory guideline range was 8 to 14 months in Zone B.

³ Bowlin's advisory guideline range was 4 to 10 months in Zone B.

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. Pratt has a total offense level of 8 and is in Criminal History Category I, yielding an advisory guideline sentencing of zero to six months. The applicable guideline range is in Zone A of the Sentencing Table and therefore does not require a sentence of imprisonment unless such a term is expressly required. U.S.S.G. § 5C1.1(b). In the present case there is no mandatory minimum sentence of imprisonment required. Mr. Pratt has a stable job and young family that he works hard to support. Mr. Pratt was also completely forthcoming with the authorities from the onset of this matter being investigated. Mr. Pratt is requesting a sentence of probation in this matter. 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 liberty to which every citizen is entitled.” (quoting *Griffin v. Wisconsin*, 483 U.S. 868, 874 (1987))). Mr. Pratt is a young man who will now be saddled with a felony for the rest of his life. An alternative sentence would permit Mr. Pratt to continue working and be self-supporting rather than a burden on taxpayers. Such a sentence could also sufficiently reflect the seriousness of Mr. Pratt’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

Defendant only has two objections to the PSR.⁴ The first objection is to the inclusion of

⁴ Counsel did not file written objections to the PSR because the information counsel is objecting to was only

interest to Mr. Pratt's restitution as set out in paragraphs 21 and 24 of the PSR. Mr. Pratt would request this Court, pursuant to 18 U.S.C. § 3612(f)(3), waive the collection of any statutory post-judgment interest on the restitution obligation in view of the defendant's current financial status. Mr. Pratt currently earns \$13.50 an hour and has two children under two years old that he supports.

Defendant's second objection is to the inclusion of the \$2,500 processing fee paid to Prestamos CDFI, LLC as part of his restitution that is addressed in paragraph 21 and 24 of the PSR. After Mr. Pratt's account was frozen, he requested Capital One to return all of the remaining funds to the lender. However, this was not done, and the money remained frozen in the account. When counsel for the defendant requested AUSA Storage to look into this matter, AUSA Storage informed counsel for the defendant that it appeared that the money had not been returned because the Department of Justice out of Washington, D.C. may be investigating Prestamos CDFI, LLC. According to an email sent by AUSA Storage, there have been no federal charges brought against Prestamos CDFI, LLC at this time. However, counsel for the defendant thinks it is important to point out that Mr. Pratt did not receive any direct benefit from the \$2,500 processing fee paid to Prestamos CDFI, LLC. Upon review of the documents that were submitted in this case, it is surprising that any lending institution approved the loan in this matter. Mr. Pratt takes full responsibility for his actions in this case. However, should the United States wish to recover the \$2,500 processing fees that were paid to lenders, counsel for the defendant believes the appropriate route may be to scrutinize the lending institutions that received the benefit of these payments. Without the addition of any interest or the processing fee, Mr. Pratt's restitution amount would be \$4,983.43.

provided by the Government two days prior to the due date of the Final PSR. Counsel for the defendant has spoken with United States Probation as well as AUSA Storage regarding this matter. Counsel for the defendant does not believe additional briefing will be required to address these issues, but should the Court wish for additional briefing, Counsel for the Defendant will prepare a motion to continue the sentencing hearing.

III. Time for Sentencing Hearing

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

III. Conclusion

For all the reasons set forth above, the defendant respectfully requests the Court to sentence Mr. Pratt 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).

TAMIR PRATT,
By Counsel,

/s/Paul E. Stroebel
Paul E. Stroebel, Esquire (WV BAR 13269)
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CERTIFICATE OF SERVICE

I, PAUL E. STROEBEL, hereby certify that a true and correct copy of the foregoing *“Defendant Tamir Pratt’s Sentencing Memorandum”* has been served upon all counsel of record this 21st day September, 2023, to the following:

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

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