IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION

UNITED STATES OF AMERICA

v. **CRIMINAL NO. 2:23-cr-00038**

TAMIR PRATT

GOVERNMENT'S SENTENCING MEMORANDUM

Now comes the United States of America, by Jonathan T. Storage, Assistant United States Attorney for the Southern District of West Virginia, and submits this Sentencing Memorandum in aid of sentencing.

I. PROCEDURAL HISTORY

On March 28, 2023, the United States Attorney filed a single-count Information against the defendant, alleging that, on or about April 24, 2021, through on or about August 9, 2021, in Charleston, Kanawha County, within the Southern District of West Virginia, he received, possessed, concealed, stored, bartered, sold and disposed of goods, wares, merchandise, securities, and money of the value of $5,000 and more, which had crossed a state boundary after being stolen, in violation of 18 U.S.C. § 2315. On April 6, 2023, the defendant entered a plea of guilty at a hearing before the Court, which was made subject to the Court's ultimate acceptance of the written Plea Agreement, which has been filed with the Clerk of Court. Within the Plea Agreement, the parties suggested the appropriate United States Sentencing Guidelines range should be consistent with an adjusted offense level of 10.

II. SENTENCING FACTORS

The United States offers the following analysis relating to the application of the sentencing factors enumerated in 18 U.S.C. § 3553(a).

A. Nature and Circumstances of the Offense

On or about April 24, 2021, the defendant applied for a Paycheck Protection Plan ("PPP") loan. The loan program was administered by the United States Small Business Administration ("SBA") as a part of congressionally authorized relief program created in the midst of the COVID-19 pandemic. The defendant falsely reported that he owned a sole proprietorship (a barber shop) and that he earned $100,000 in gross revenue from operating that fictitious business in tax year 2020. The defendant prepared or caused to be prepared a fraudulent IRS Form Schedule C, which was submitted with his PPP loan paperwork.

On or about May 11, 2021, a private lender, working in cooperation with the SBA, approved the defendant's loan application and distributed loan funds to the defendant. The lender transferred $20,832 from Arizona to West Virginia, where the defendant accessed the funds through his Capital One bank account. The defendant's PPP loan was subsequently forgiven by the SBA pursuant to its reliance on the defendant's representations that he had complied with program rules.

The defendant spent approximately $4,983.43 of the loan funds. Because Capital One imposed an account freeze on the defendant's bank account, $15,748.57 remained available to be transferred back to the SBA. On or about August 7, 2023, $15,748.57 was wired from Capital One to the SBA, which was made pursuant to a transfer authorization executed by the defendant.

In addition to the principal amount of the loan of $20,832, the SBA paid the private lender $2,500 for processing and underwriting the defendant's loan application. Additionally, the defendant's account had accrued $250.56 in interest at the time his loan was forgiven. Accordingly, the net balance left to be paid in restitution is $7,833.99.

B. History and Characteristics of the Offender

Mr. Pratt is 21 years old and was born in Philadelphia, Pennsylvania, where he lived until he was 18 years old. He has resided in Charleston, West Virginia, for approximately 2 years. Many of his family ties remain in the Philadelphia area. His father is incarcerated, and his mother is deceased. Of his six siblings, only one of them resides in West Virginia: half-brother Calvin Butler.[1] The defendant has at least one child, who resides in Charleston, West Virginia.

The defendant completed the ninth grade, and he has not obtained a GED. The defendant has reported use of marijuana and alcohol. Mr. Pratt is currently employed fulltime.

The defendant has a noteworthy juvenile criminal history—detailed in the PSR—that the government will not recount here.

C. Seriousness of Offense, Deterrence, and Protection

A sentence within the advisory guideline range would reflect the seriousness of the offense, promote respect for the law, and provide just punishment, as well as afford adequate deterrence and protect the public from further crimes of the defendant.

The defendant is in good health, is gainfully employed, and does not have a history of committing similar crimes. Whether or not the defendant is imprisoned, the government is optimistic that the defendant will not commit additional crimes. Moreover, the defendant will likely be able to satisfy any restitution obligation sooner, should he not be incarcerated. Finally, the government does not currently believe the defendant poses a threat to the community.

[1] On May 18, 2023, this Court sentenced Mr. Butler to five years of probation, with the first 6 months to be served on home detention, for PPP loan fraud. *See United States v. Calvin Butler*, 2:22-cr-00161. Mr. Butler, unlike Mr. Pratt, was charged with wire fraud (18 U.S.C. § 1343).

D. Correctional Facility Services and Treatment Options

Other than possible availing himself of educational programs, the defendant does not appear to need any particularized care or treatment programs currently offered by the Bureau of Prisons.

III. SENTENCING HEARING

The government does not anticipate calling witnesses at the sentencing hearing. No objections are currently pending with the U.S. Probation Office.

The government expects that the sentencing hearing may be completed within one hour.

IV. CONCLUSION

The United States submits that a sentence within the advisory range is sufficient but not greater than necessary to meet the goals of sentencing and importantly to protect the public from further crimes by the defendant while deterring others from engaging is such criminal conduct.

Respectfully submitted,

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CERTIFICATE OF SERVICE

It is hereby certified that the foregoing "GOVERNMENT'S SENTENCING MEMORANDUM" has been electronically filed and service has been made on opposing counsel by virtue of such electronic filing on this 21st day of September, 2023, to:

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