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May 8, 2025

Via ECF

Honorable Mary Kay Vyskocil
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: *United States v. Chris Recamier*, 21 Cr. 746 (MKV)

Dear Judge Vyskocil:

On October 17, 2022, this Court sentenced Chris Recamier following his guilty plea to major fraud against the United States in violation of 18 U.S.C. § 1031. The Court determined the Sentencing Guidelines range was 108–120 months and imposed a sentence of 108 months' imprisonment—the lowest end of the applicable range—followed by three years of supervised release. *See* ECF 104, Sentencing Tr. ("Tr.") at 35.

On November 21, 2023, the Probation Office issued a report indicating that Mr. Recamier is eligible for a sentence reduction under Amendment 821 to the Sentencing Guidelines. *See* ECF 151, Supplemental Presentence Report ("Supplemental PSR"). Pursuant to Amendment 821, the Probation Office explained, the Guidelines range applicable to Mr. Recamier's case has been lowered to 87–108 months. *Id.* at 3. On April 18, 2025, the Court appointed me under the Criminal Justice Act—following a conflict by the Federal Public Defenders—to represent Mr. Recamier in filing his motion for a sentence reduction. For the reasons set forth below, pursuant to 18 U.S.C. § 3582(c)(2), I respectfully urge the Court to vacate Mr. Recamier's sentence and to impose a new term of imprisonment of 87 months' imprisonment, the bottom of the newly reduced Guidelines range.

I. The Amended Sentencing Guidelines

Amendment 821 to the Sentencing Guidelines went into effect on November 1, 2023. The Amendment made "targeted changes" to reduce recommended guideline ranges for offenders with zero criminal history points under the Guidelines. Part B of the Amendment created a new Chapter Four guideline at § 4C1.1 (Adjustment for Certain Zero-Point Offenders), which provides a decrease

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of two levels from the offense level determined under Chapters Two and Three for offenders who did not receive any criminal history points under Chapter Four, Part A, and whose instant offense did not involve specified aggravating factors. *See* U.S.S.G. § 4C1.1(a); Supplement to Appendix C, Reason for Amendment.

With respect to the reason for the Amendment, the Commission explained as follows: “In establishing new §4C1.1, the Commission was informed by its studies of recidivism among federal offenders, as well as other extensive data analyses of offenders with no criminal history points, and public comment. . . . Recidivism data analyzed by the Commission shows . . . that offenders with zero criminal history points have considerably lower recidivism rates than other offenders, including offenders with one criminal history point. Among other findings, the report concluded that ‘zero-point offenders’ were less likely to be rearrested than ‘one point’ offenders (26.8% compared to 42.3%), the largest variation of any comparison of offenders within the same Criminal History Category.” *See* U.S.S.G. App. C, Amendment 821, Reason for Amendment (quoting U.S. SENT’G COMM’N, *RECIDIVISM OF FEDERAL OFFENDERS RELEASED IN 2010* (2021), available at <https://www.ussc.gov/research/research-reports/recidivism-federal-offenders-released2010>).

Explaining the rationale for making the changes to the criminal history rules retroactive, the Commission wrote, “[t]he purpose of these targeted amendments is to balance the Commission’s mission of implementing data-driven sentencing policies with its duty to craft penalties that reflect the statutory purposes of sentencing and to reflect ‘advancement in knowledge of human behavior as it relates to the criminal justice process.’ The Commission determined that the policy reasons underlying the prospective application of the amendment apply with equal force to individuals who are already sentenced.” U.S.S.G. App. C, Amendment 825, Reason for Amendment (citing 28 U.S.C. § 991(b)).

“The Commission further determined that the changes made by Part B, Subpart 1 reflect its statutory mission to provide for penalties that are ‘sufficient, but not greater than necessary’ by recognizing that individuals with zero criminal history points have considerably lower recidivism rates than other sentenced individuals, as well as the fact that courts generally depart and vary more often in cases involving individuals with zero criminal history points as compared with other individuals.” *Id.*

To determine the extent of a retroactive sentencing reduction under § 3582(c)(2) for an eligible defendant, a court “shall consider the factors set forth in 18 U.S.C. § 3553(a)” as well as “public safety consideration[s]”—including “the nature and seriousness of the danger to any person or the community that may be posed by a reduction”—and may consider the defendant’s “post-sentencing conduct.” U.S.S.G. § 1B1.10, comment 1(B) (capitalization altered). A defendant’s sentence can be reduced to the minimum of the new, amended Guidelines range. *See* U.S.S.G. § 1B1.10(b)(2)(A).

II. Mr. Recamier Is Eligible For A Sentence Reduction

“A defendant is eligible for a potential sentence reduction if, as a result of Amendment 821, the defendant’s amended Guidelines range is lower than the range applied at his sentencing, and the defendant did not already receive a sentence lower than the amended range.” *United States v. Tannuzzo*, 2024 WL 2867103, at *1 (S.D.N.Y. June 5, 2024) (Vyskocil, J.). At the time of Mr. Recamier’s sentencing, the Court concluded that the total offense level was 31 and that Mr.

Recamier had zero criminal history points and was therefore in criminal history category I. Tr. at 29–30. The Sentencing Guidelines recommended a range of 108–120 months’ imprisonment, accounting for the statutory maximum of 10 years’ imprisonment, 18 U.S.C. § 1031(a). The government sought a Guidelines sentence. Tr. at 18. Mr. Recamier requested a sentence of 60 months’ imprisonment. Tr. at 23–24. The Probation Office recommended a sentence of 84 months. ECF 71, Final Presentence Report (“PSR”) at 28. The Court sentenced Mr. Recamier to 108 months’ imprisonment. Tr. at 35. The Court noted at the time that it considered a sentence at the lowest end of the Guidelines to be appropriate. Tr. at 35 (“So, with all of that in mind, it is my intent to sentence you, as I say, within the guidelines range, but at the lowest end of that range.”). The imposed sentence is not below the amended Guidelines range. *See Tannuzzo*, 2024 WL 2867103, at *1.

The Probation Office has correctly concluded that Mr. Recamier is eligible for a sentencing reduction. *See* Supplemental PSR. The conviction in this case constituted Mr. Recamier’s first offense and the Court found that he had zero criminal history points. Tr. at 29–30. None of the exclusions set forth in § 4C1.1(a)(2)–(10) are applicable. Because the retroactively applicable Amendment 821 reduces Mr. Recamier’s applicable guideline range from 108–120 months to 87–108 months, he is eligible for a reduction in sentence pursuant to 18 U.S.C. § 3582(c)(2); U.S.S.G. § 1B1.10(a)(1). Supplemental PSR at 3.

III. The Court Should Exercise Its Discretion To Reduce Mr. Recamier’s Sentence To 87 Months

“Once the Court concludes that a defendant is eligible for a potential sentence reduction, the Court must then consider the factors set forth in 18 U.S.C. § 3553(a) in determining . . . whether a reduction in the defendant’s term of imprisonment is warranted.” *Tannuzzo*, 2024 WL 2867103, at *1 (citation and quotation marks omitted). As the Court noted at his sentencing hearing, Mr. Recamier undoubtedly committed a serious financial crime. The Court’s decision not to follow the Probation Office’s recommendation of a below-Guidelines sentence of 84 months’ imprisonment reflects the Court’s view of the seriousness of his crime. At the same time, the Court acknowledged a number of mitigating factors present in Mr. Recamier’s case. The Court noted Mr. Recamier’s difficult upbringing and hardships he had faced, including the loss of his father at a young age and a mother that struggled with severe depression. Tr. at 31. The Court also commended Mr. Recamier on availing himself of educational and job opportunities available to him while detained pre-sentencing and encouraged him to continue on his path to “beating [his] drug habit.” Tr. at 31–32, 39. Accordingly, the Court concluded that a sentence at the lowest end of the then-applicable Guidelines range was appropriate.

Since then, Mr. Recamier’s conduct in prison has only underscored why a sentence at the lowest end of the applicable Guidelines range continues to be appropriate. *See* U.S.S.G. § 1B1.10, comment 1(B) (noting that courts can consider the defendant’s “post-sentencing conduct” in determining whether to make a reduction (capitalization altered)). Mr. Recamier has been a model prisoner. He has not received any disciplinary sanctions and, as the Court urged during his sentencing, he has taken full advantage of the educational programs and work assignments available to him in his institution. Supplemental PSR at 4. Indeed, Mr. Recamier has taken a wide swath of educational programs and has been working regular shifts in the warehouse. *See id.* Mr. Recamier has taken

every opportunity available to improve himself and put himself in the best position possible to live up to the Court's "sincere hope" that he will not find himself involved with the criminal justice system again after serving his sentence. Tr. at 39. Accordingly, I respectfully urge the Court to consider Mr. Recamier's exemplary conduct in prison and the factors that led it to conclude that a sentence at the lowest end of the then-applicable Guidelines range was appropriate in the first instance, and to determine that a sentence at the lowest end of the new Guidelines range is again appropriate.

For the above reasons, and under the authority of 18 U.S.C. § 3582(c)(2) and U.S.S.G. § 1B1.10, the Court should resentence Mr. Recamier to 87 months' imprisonment.

Respectfully submitted,

/s/ Marc Greenwald

Marc Greenwald
Michael Linneman