

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 2:23-CR-00123

SEAN PATRICK BOYD, JR.

GOVERNMENT'S SENTENCING MEMORANDUM

Comes now 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. 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). As discussed below, the government requests that the Court impose a sentence within the applicable U.S. Sentencing Guidelines range.

A. History and Characteristics of the Offender

The defendant was born in Huntington, West Virginia, and is twenty-six years old. PSR ¶ 43. Since age three, the defendant has had no contact with his father. Id. The defendant's mother resides in Columbus, Ohio. Id. The defendant has four siblings, each residing within the Southern District of West Virginia. Id.

The defendant grew up in Huntington, during which time he received sufficient food and shelter. PSR ¶ 44. While growing up, his home's utilities were shut off from time-to-time because of his family's financial struggles. Id. The defendant never experienced any abuse or neglect as an adolescent. Id.

The defendant is single and has one child -- a five-year-old daughter -- from a previous relationship. PSR ¶ 45. The defendant's daughter resides with her mother in Charleston, West Virginia, and his daughter visits with him every Thursday through Sunday. Id.

The defendant began smoking marijuana at the age of 15. PSR ¶ 50. The defendant told the U.S. Probation Officer that he last smoked marijuana in October 2023 and that he had only consumed alcohol on his twenty-first birthday. Id.

The defendant has no history of severe drug abuse, and he has no history of treatment for substance abuse. PSR ¶ 51.

The defendant attended Huntington High School in Huntington, West Virginia, but he did not graduate. PSR ¶ 52. The defendant completed the 10th grade and is literate. Id.

The defendant is self-employed, owning an LLC that buys and re-sales sneakers. PSR ¶ 53. The defendant has been engaged in the business for approximately 1.5 years, and his shoe re-sale business is his only reported source of income. Id. The defendant's previous employment includes the following: Quaker Steak and Lube

(restaurant & bar) located in Charleston, West Virginia; Fat Patty's (restaurant & bar) located in Huntington, West Virginia; and Mardi Gras Casino located in Cross Lanes, West Virginia. Id.

B. Nature and Circumstances of the Offense

On March 29, 2021, the defendant applied for a Paycheck Protection Plan ("PPP") loan on behalf of his purported business, "Sean Boyd." PSR ¶ 13. The defendant falsely represented that "Sean Boyd," a fictitious business, received \$99,996 in gross income during the 2019 tax year. Id. The defendant was approved for a PPP loan, and he obtained \$20,832 in loan proceeds. Id.

On May 24, 2021, the defendant received a bank deposit in his personal checking account at Huntington National Bank for the entire approved PPP loan amount. PSR ¶ 14. The same day, the defendant appeared in person at a Huntington National Bank branch in Nitro, West Virginia, and withdrew \$10,000 in cash from his checking account. Id.

During an interview with investigators, the defendant stated that he communicated with an unidentified individual over the Internet, who told him how he could receive government money under the PPP loan program. PSR ¶ 17. The defendant provided his personal information to the unidentified online individual, who prepared the loan documents for the defendant. Id.

Because of the false and fraudulent statements made in his loan application to the lender, the defendant successfully duped the lender into approving the loan, allowing the defendant to receive ill-gotten gains that were backed by the American Taxpayer.

C. Seriousness of Offense, Deterrence, and Community Protection

Established within the CARES Act, the PPP loan program was created as an emergency economic stability measure during the COVID-19 pandemic. Congress tasked the Small Business Administration ("SBA") -- which itself is a small federal agency -- with the heavy burden of administering the new PPP loan program with break-neck haste. SBA contracted with private lenders to receive, review, and approve PPP loans that satisfied the program's rules. Because of factors relating to massive work volumes and external pressures to quicken the loan approval process, many fraudulent loans were unwittingly approved under the PPP loan program.

The defendant took advantage of a national health and financial emergency for his own personal gain. Like many others, the defendant engaged in criminal opportunism during a period of significant national trauma, grabbing what he could for himself at the mere unsolicited suggestion of an unknown person in cyberspace.

The ease with which the defendant engaged in felonious conduct is troubling, but the defendant's crime was not particularly sophisticated. Had this case gone to trial, proving the defendant's criminal conduct would not have been difficult, suggesting that the defendant did not much consider the possibility of getting caught. Moreover, the defendant's interactions with investigators have convinced the undersigned AUSA that the defendant is no hardened criminal, looking for his next great scam or deep-pocketed victim. Instead, the undersigned AUSA believes that the PPP loan program created an easy crime of opportunity for the defendant that was wholly outside the defendant's experience.

Based on the facts of this case and the defendant's background, the government believes that a sentence within the applicable Guidelines range will sufficiently deter him from engaging in further criminal conduct. The defendant's felony conviction is no small thing; he will now forever carry an unsavory designation. Importantly, his newly established status as a felon will only cause any future criminal conduct to be punished more severely, a strong deterrent in its own right. Accordingly, the government argues that a sentence within the applicable Guidelines range is sufficient to deter any future criminal conduct and adequately addresses the seriousness of the offense.

Finally, the nature of the defendant's underlying criminal conduct and his willingness to accept responsibility all suggest that the defendant does not pose a danger to the public.¹

D. Sentencing Options

The applicable sentencing Guideline range in this case is between 0 and 6 months of imprisonment. A sentence within this range would be consistent with defendants with similar records who have been found guilty of similar conduct, thus avoiding unwarranted sentencing disparities.

II. CONCLUSION

The government submits that a sentence within the Guidelines 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 in such criminal conduct.

¹ The government points out that as yet unproven allegations of assault have been documented in the Presentence Investigation Report. See PSR ¶ 10. The government resists making arguments about unproven allegations -- wholly unrelated to the underlying crime -- in evaluating the defendant's potential threat to the public.

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 electronic mail this the 14th day of February, 2024 to:

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