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

UNITED STATES OF AMERICA,

Plaintiff,

v. **Criminal Action No. 2:24-cr-00192-06**
Judge Irene C. Berger

DAMISHA BROWN,

Defendant.

SENTENCING MEMORANDUM

Defendant Damisha Brown, by counsel, submits this Sentencing Memorandum for consideration by the Court at her upcoming sentencing hearing. For the reasons set forth below, Ms. Brown requests that the Court impose a sentence of zero months or time served to be followed by a period of supervised release.

I. Legal Objections.

Ms. Brown has no legal objections to the probation officer's calculation of her offense level or criminal history points as set forth in the presentence report ("PSR"). On June 5, 2025, Ms. Brown plead guilty to Count One of the Superseding Indictment charging her with conspiracy to commit bank fraud. Ms. Brown's total offense level is nine, which includes a two level reduction for acceptance of responsibility. *See* U.S.S.G. § 3E1.1(a); PSR ¶¶ 18-28. Ms. Brown has one criminal history point placing her in criminal history category I. *See* PSR ¶¶ 29-33. The corresponding advisory guideline range is four months to ten months. *See* PSR ¶ 52.

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

A. Nature and Circumstances of the Offense and the History and Characteristics of the Defendant.

Ms. Brown is a 32 years-old single mother and the primary caregiver for her three children – Kharin (age 13), Kamryn (age 11), and Braya (age 5). *See* PSR ¶ 41. Kharin and Braya reside with Ms. Brown full-time. *See* PSR ¶ 41. Braya's father is incarcerated, and Kamryn's father was murdered in 2022. Kamryn has since primarily resided with his paternal grandmother; however, Ms. Brown still maintains daily contact with Kamryn, and he resides with Ms. Brown on weekends and holidays. *See* PSR ¶ 41. Any period of imprisonment would result in a significant loss for her three children. The requested sentence would allow Ms. Brown to continue providing for her family without being overly punitive.

Ms. Brown is employed full-time as a direct support person at Spectrum for Living, a group home for disabled adults, where she works approximately 70 hours per week. *See* PSR ¶ 47. She is also employed part-time as a bartender at The Foxes restaurant and cocktail lounge and as driver for Lyft. *See* PSR ¶ 47. A sentence of imprisonment would likely result in the loss of Ms. Brown's full-time job, and as a convicted felon, would limit her employment opportunities, creating a financial hardship for her and her family. In addition, the requested sentence would allow her to continue working and begin making restitution payments in a timelier manner.

Ms. Brown does not object to the description of the offense conduct as set forth in the PSR. *See* PSR ¶¶ 7-14. Ms. Brown has fully accepted responsibility for her actions and has expressed regret for committing the offense. *See* PSR ¶ 17. Ms. Brown plead guilty to the indictment and has complied with the terms of her plea agreement, thus saving the both the Court and the Government time and resources. Ms. Brown has been on bond with pretrial services supervision since March 3, 2025, and has maintained compliance with the conditions of her bond. *See* PSR ¶ 6.

B. Need for the Sentence Imposed to Reflect the Seriousness of the Offense, to Promote Respect for the Law, and to Provide Just Punishment for the Offense; to Afford Adequate Deterrence to Criminal Conduct; to Protect the Public from Further Crimes of the Defendant; and to Provide the Defendant with Needed Educational or Vocational Training, Medical Care, or Other Correctional Treatment in the Most Effective Manner.

The requested sentence is a sentence that is sufficient but not greater than necessary to satisfy the purposes set forth in 18 U.S.C. § 3553(a)(2). This offense is Ms. Brown's first felony offense, and any sentence of imprisonment would represent a significant amount of time away from her family. Ms. Brown is also subject to a term of supervised release, which will allow the Court to monitor Ms. Brown's activities to make sure that she does not engage in any criminal conduct.

C. Kinds of Sentences Available and the Kinds of Sentence and the Sentencing Range Established by the Guidelines.

Ms. Brown does not object to the available sentencing options as set forth in the PSR. See PSR ¶¶ 51-94.

D. Pertinent Policy Statements.

Ms. Brown does not believe that there are any pertinent policy statements.

E. Need to Avoid Unwarranted Sentence Disparity among Defendants with Similar Records Who Have Been Found Guilty of Similar Conduct.

The need to avoid unwarranted sentencing disparity warrants consideration of a downward variance. The advisory guideline range set forth in the PSR is four to ten months. *See* PSR ¶ 52. JSIN data shows that the sentence imposed during the last 5 fiscal years for defendants with similar records who have been found guilty of similar conduct was an average of two months and a median of zero months. *See* PSR ¶¶ 119-122. The requested sentence would avoid unwarranted sentence disparity and would be consistent with JSIN data for defendants with similar records who have

been found guilty of similar conduct. *See* PSR ¶¶ 119-122. The requested sentence would also be consistent with the sentences imposed on co-defendants and defendants sentenced in related cases.

F. Need to Provide Restitution to Any Victim of the Offense.

Ms. Brown has agreed that she owes restitution of at least $12,125. *See* PSR ¶¶ 5, 15.

III. Witnesses to be Called.

Ms. Brown does not plan to call any witnesses at her sentencing hearing. Attached are character letters received to date. Additional character letters from friends and family will be tendered to the Court if any are received hereafter.

IV. Estimate of Time Needed for the Sentencing Hearing.

Counsel anticipates that this hearing should take no longer than 30-45 minutes.

DAMISHA BROWN

By Counsel

/s/ Clayton T. Harkins

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CERTIFICATE OF SERVICE

I, Clayton T. Harkins, do hereby certify that the foregoing **Sentencing Memorandum** was served upon all parties via the CM/ECF Court System on August 29, 2025:

Jonathan Storage
United States Attorney's Office
300 Virginia Street East, Suite 4000
Charleston, West Virginia 25301
Counsel for the United States of America

/s/ Clayton T. Harkins
Clayton T. Harkins (WVSB# 13409)