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U.S. DISTRICT COURT
N.D. OF ALABAMA

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	**Case No. 5:22-cr-113-LCB-HNJ-2**
	)	
SCHARA MONIQUE DAVIS,	)	
	)	
Defendant.	)	

DEFENDANT'S SENTENCING MEMORANDUM and REQUEST FOR VARIANCE

Comes now the Defendant, Schara Davis, by and through undersigned counsel, and files this her Sentencing Memorandum, and would respectfully show unto this Honorable Court as follows:

1. Pursuant to and in accordance with 18 U.S.C. §3553(a), and all prior appellate decisions, Defendant Schara Davis avers that her Sentencing Memorandum sets forth pertinent factors that this Honorable Court should consider before imposing a sentence upon her.

2. This Honorable Court is all too familiar with the U.S. Supreme Court decision in U.S. v. Booker, 543 U.S. 220 (2005) and its progeny, and the subsequent holdings dealing with determining an appropriate sentence, as well as the factors to be considered pursuant to 18 U.S.C. §3553(a).

I. PROCEDURAL HISTORY:

In 2022, Schara Davis and her co-defendant wife, Francene Gayle were indicted and charged with : conspiring to unlawfully distribute and dispense controlled substances, in violation of 21 U.S.C. § 846 (Count 1); unlawfully distributing controlled substances, each count a violation of 21 U.S.C. § 841(a)(1) (Counts 2-6); conspiring to commit health care fraud, in violation of 18 U.S.C.

§ 1349 (Count 7); and health care fraud, each count a violation of 18 U.S.C. § 1349 (Counts 8-15); and wire fraud in violation of 18 U.S.C. § 1347 (Count 16), and three counts of wire fraud, in violation of 18 U.S.C. § 1343 (Counts 17-19), based on applying for and in appropriately using various COVID-19 relief funds.

On July 22, 2024, Ms. Davis pled guilty to two counts of the superceding Indictment — specifically Count 7, (conspiracy to commit health care fraud in violation of 18 U.S.C. § 1349) and Count 16 (wire fraud in violation of 18 U.S.C. § 1347). The Government agreed to dismiss Counts 1 thru 6, Counts 8 thru 15, and Counts 15 thru 19.

On November 28, 2024, Ms. Davis filed Objections / Responses to the Presentence Investigation Report. Requested modification, corrections and additions requested by Ms. Davis were made by U.S. Probation, and a revised Presentence Investigation Report was released on December 11, 2024. Ms. Davis made two objections to the Presentence Investigation Report, however, those objections have been withdrawn after the revised report was released.

II. INTRODUCTION:

In this Sentencing Memorandum, Defendant Schara Davis(hereinafter referred to as Ms. Davis) would submit facts and information relative to her and her life that she believes will be significant to this Honorable Court in determining a sentence for this Defendant in this case under her particular circumstances. With sentencing now set, Schara Davis would respectfully request this Honorable Court to consider her as an individual standing before the Court looking for a sentence that is *reasonable* considering the 18 U.S.C. §3553(a)(2) factors of sentencing – — nature and circumstances of the offense *and the history and characteristics of the defendant*; the need for the sentence 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 the needed educational or vocational training, medical care, or other treatment in the most effective manner possible, but also not more than necessary to achieve the purpose of sentencing.

This information is presented in an effort to allow this Honorable Court to become more familiar with Ms. Davis prior to this Honorable Court imposing sentence, which we all know will be life changing not only for Ms. Davis, but also for her children.

III. CURRENT STATUS:

Defendant Schara Davis is a 48 year old African American woman who is charged, along with her wife, Dr. Francene Gayle, with health care fraud, wire fraud, controlled substance violations, and Payroll Protection Program fraud. Ms. Davis resides in Apopka, FL with her wife, Dr. Francene Gayle, and their children. Ms. Davis is employed working remotely from home while she cares for her children. She is on bond, and has been compliant with all terms of her supervised release.

IV. BACKGROUND / HISTORY AND CHARACTERISTICS:

Early years: Ms. Davis came from a family where she and her two sisters was cared for by their parents in Decatur, AL. During the Presentence Investigation Report, Ms. Davis relayed that she was sexually assaulted in the 8th grade by the son of a family friend who was 18 years of age. Her father passed away in 1987, and her mother has had a stroke about ten (10) years ago, and it has left her unable to speak or use the right side of her body. She currently resides in a residential rehabilitation facility in Decatur, AL. Ms. Davis and her mother are close, and until Ms. Davis moved to Florida, she did as much for her mother as possible.

In 1995, at age 18, she moved away from Decatur to Huntsville to live with her grandmother in Huntsville, AL. She had been expelled from school for fighting, which she explained was because she stepped in the try to break up an altercation between her sister and another student. Her sister

was also expelled.

Education: She received her GED in 1994 from Calhoun Community College, and she began her new life of hard work to put herself in a much better place. While living in Huntsville, Ms. Davis attended Calhoun Community College where she obtained a bachelors degree, then began working on her masters. She is currently remotely attending University of the People to continue work toward her masters degree.

First marriage: In 2006, she married Rodney Spratlen, who was much older. After five (5) years, they realized that they were better suited to be good friends, rather than husband and wife, so they divorced. They are still close, and he has always been supportive of her. They have a daughter, Saana Spratlen, who is now 21, and is studying nursing. Mr. Spratlen has written a letter in support of Ms. Davis.

Employment: As can be seen from the Presentence Investigation Report, Ms. Davis has always been employed – constantly trying to put herself in a better positions financially and experience-wise. She is currently employed by Community Health Centers in Winter Garden, Florida. In her current position, she is able to work from home, which is critical to her right now, especially in that this allows her to take care of her children, Matthew, age 11, and Kahlil, age 16. There are medical and mental health issues that Ms. Davis must deal with concerning her children, thus being with them as much as possible is critical.

Current marriage and children: After her divorce from Mr. Sprawled, Ms. Davis met Dr. Francene Gayle in 2010 in Huntsville. They married in 2014.

In 2013, Dr. Gayle became mother to Matthew Gayle, now 11 years of age. Matthew was born fourteen week premature, and was hospitalized for about two months after his birth. Matthew's biological mother decided that she could not care for him, and she brought him to Dr. Gayle to care

for, which she and Ms. Davis have done since 2013. Through their contact with Matthew's biological Dr. Gayle and Ms. Davis began helping, then ultimately solely caring for Matthew's two siblings, Kahlil Dean then age 5, and Jala Watkins, then age 13. The three siblings became a part of Gayle and Davis' family, along with Davis' daughter Saan. When the biological mother could not care for her three children, and Dr. Gayle and Ms. Davis formally became their guardians in 2015.

Since 2013 to date, Ms. Davis and her wife have solely raised the four children, caring for them, loving them, investing time and energy in helping them in every aspect of their lives. They expended vast time, love, energy and money helping Matthew, Kahlil and Jala work through, and heal from the trauma they had lived through while in the care of their biological mother. Kahlil and Jala were afraid, broken, scared, but Davis and Gayle took whatever time and effort that was required to help these children grow and progress.

Jala is now 24, and Kahili is 16. Both Jala and Kahlil have written letters of support, as has Ms. Davis' daughter Saan. Those letters say best what Davis and Gayle have done for them, and how their lives have been forever changed and enriched by being raised by Davis and Gail. Those letters are attached as Exhibits.

Ms. Davis has been dedicated in every manner possible to all of the children. They are her life.

Also attached to this Memorandum are numerous letters of support from others who know Ms. Davis well, and personally. Each expresses their individual experience with Ms. Davis, and what she has meant to them, and others they know.

Defendant's medical history: In the PSR, the Probation Officer very will set out the vast medical history, her current conditions being treated, her long list of medications, and her anticipated treatment / surgery for a couple of medical Paragraphs 137 - 140 of the PSR.

V. REQUEST FOR VARIANCE

Schara Davis has been a hard working, law abiding citizen her entire life. However, in this particular case, she is not truly being given credit for her lack of criminal history due to the fact she is considered as an organizer, leader, manager or supervisor of any criminal activity, thus there were 2 points added pursuant to USSG §3B1.1(c). This decision was made because Ms. Davis was a co-owner of the medical clinics, she was listed as an owner when the business was incorporated, signed Blue Cross Blue Shield applications as an owner, and performed work for the clinic.

Ms. Davis was not given credit by Probation for being a Zero-Point Offender, pursuant to USSG §§4C1.1(1)-(10) because of her being considered an organizer, leader, manager, or supervisor of a criminal activity. Thus she misses out on being given credit for 2 points as a Zero-Point Offender.

Ms. Davis has taken full responsibility for her culpability in the two Counts, out of 19 Counts charged in this matter. She would, however argue that her culpability in this matter is very much less that co-defendant (and wife), Dr. Francene Gayle. Dr. Gayle ran the clinics. Dr. Gayle made the major decisions – not matter what. Dr. Gayle was strictly her own person, and could, and would not be deterred by anyone. Schara Davis was not a doctor, and she did not see patients. Other than her name being listed and signed as co-owner, her main job with the clinics was to pay bills, do payroll, handle supplies, and help Dr. Gayle coordinate. Ms. Davis did not even have an office in any of the clinics. Say this is not meant to take away from her acceptance of her responsibility in the conduct. However, that conduct and actions were on a much lower scale that those of Francene Gayle.

Ms. Davis spent a significant amount of her time taking care of the home and the children, and not at the clinic. She makes this point to highlight her position and conduct as compared to that of

Dr. Gayle. As a result, Ms. Davis moves this Honorable Court to consider a variance downward.

The Presentence Investigation Report calculates the guidelines at a total offense level of 24. If the Defendant were given two points as a Zero-Point Offender, the Offense Level should be 22, resulting in a guideline range of 41-52 months.

Together with the other significant factors presented by Ms. Davis regarding the fact that the co-defendant is her wife, her personal life, her son with mental health and medical issues, as well as her own medical and health issues, she moves this Honorable Court for a variance in her case to 18 months.

As this Honorable Court is well aware, while the Court must calculate the advisory sentencing range under the United States Sentencing Guidelines, the Court is not bound to impose a sentence within the range. Instead, the Court may, and should, use its own judgment to "impose a sentence *sufficient, but not greater than necessary*, to comply with the purposes [of sentencing]" after considering all of the factors listed in 18 U.S.C. § 3553(a) for this specific defendant.

VI. REQUEST FOR SELF-REPORTING

As this Honorable Court is aware, the co-defendants in this case are a married couple who have minor children still at home. One of the children, Matthew, now 11, suffers from mental health issues as a result of his premature birth, and delayed development because of being born to a drug using mother. He suffers from severe Adjustment Disorder with Anxious Mood. This is severe separation anxiety, and is mentioned in the PSR Paragraph 135, and medical records have been provided to document that problem. He has a desperate fear that Ms. Davis is going to leave him, and not return. Any time she leaves this house, he has to know where she is going, and exactly when she will return. Even after that, he calls or texts her while is away wanting to know if she is OK, and

when she will return home. He has been diagnosed by Dr. Rosalyn I. Johnson, Ed.D, LMHC. The records for Matthew have been provided to U.S. Probation. Schara Davis asks that the Court permit her to self-report to a designated facility.

A district court may release a defendant who has pled guilty to controlled substance offenses carrying with them maximum terms of imprisonment of more than 10 years, and who would normally be subject to the automatic remand provisions found at § 3143(a)(2) of the Bail Reform Act, if there are exceptional reasons. See United States v. Meister, 744 F.3d 1236, 1237-1239 (11th Cir. 2013) (allowing a district court to release a defendant on bond who is unlikely to pose a danger or flee when there are exceptional reasons).

This decision is made at the time of conviction. This Honorable Court made the decision to allow Ms. Davis to remain out on bond living in Florida during the pendency of this matter. Thus there appears to be no reason now to allow her to take care of her children, an voluntarily surrender for the service of her sentence when required.

As described above, at the time of her guilty plea, and as currently is the case Schara Davis has considerable obligations to with her children. She also assists her wife, Dr. Gayle care for her elderly parents on a daily basis. Ms. Davis has not family in the either in the area, or any other area who can care for her children with their special needs, and she has no one to help her by assuming responsibility of the children. With the fact that both she and her wife will have some undetermined sentence to serve, it is extremely difficult make plans for the care of the children.

The degree to which both Dr. Gayle's parents and the children depend on her, and the lack of a cohesive plan for alternate caregiving, constitute exceptional reasons justifying her continued release after her guilty plea. See 18 U.S.C. § 3145(c); see also United States v. Hooks, 330 F. Supp. 2d 1311, 1313–14 (M.D. Ala. Aug. 14, 2004) (holding that "exceptional reasons" for the defendant's

release existed where the defendant was "a single mother of three children, aged, 2, 5, and 7, and "absolutely no arrangements [had] yet been made for her young children's care—whether short or long term—during [the defendant's] detention"); cf. United States v. Johnson, No. 2:17-CR-221-MHT, 2018 WL 4922724, *2 (M.D. Ala. Oct. 10, 2018) (holding that "exceptional reasons" for the defendant's release existed where the defendant's father had recently passed away and the defendant was "the only individual with the authority to attend to his father's financial matters").

Further, nothing in the PSR indicates that Schara Davis is a flight risk, or poses any danger to any other person or to the community. **See** § 3143(a)(1), (b)(1)(A). Because exceptional reasons Ms. Davis' release existed at the time of her guilty plea, and continue to exist presently, Ms. Davis asks that the Court decline to apply § 3143(a)(2), and permit her to remain on release for a limited period of time after her sentencing hearing.

VII. MISCELLANEOUS

Defendant Schara Davis and her counsel have discussed the issue of the children, and how they will react if both she and Dr. Gayle at in custody at the same time. We have worked trying to come up with options to present to the Court that are reasonable to handle the serious matter at the same time as it addresses the issue of a defendant being sentenced to some punishment. At this point, the only situation that seems to address everything is for one parent serve their sentence with the other stays at home with the children ---- then the other parent serve her sentence. This is such an unusual situation — though it is a married couple, both are females, and as such are considered to be care givers. I know Schara Davis has always been the primary care give for the children while Dr. Gayle was working as a doctor. As a result, Schara Davis moves this Honorable Court to not only allow her to voluntarily self-surrender, but also assist the parties in coming up with some thinking

outside the box way her situation could be handled rather than both she and Dr. Gayle having to be gone at the same time — leaving the children at the mercy of *WHO?* The State???? Surely not??? Being separated from both defendants would be the downfall of the two minor boys — especially Matthew with his severe separation anxiety. Any progress having been made with all the hard work with him would most likely be lost if that happened.

With all of the matters Ms. Davis as raised, she moves this Honorable Court to take all these matters under consideration in forming a sentence for HER as an individual under HER circumstances..... one that is reasonable, but not more than necessary to achieve the goals of sentencing.

CONCLUSION

Based on the above argument, Defendant Schara Davis would request this Honorable Court to consider a variance pursuant to 3553(a), and would respectfully request that in that variance she be to sentenced using an offense level 13, with a criminal history of I, resulting in a guideline range of 12 - 18 months.

Respectfully submitted,
s/ **KATHERINE P. LUKER**
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CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of December, 2024, I electronically filed the above and foregoing Sentencing Memorandum and Motion for Variance using the CM/ECF system with service being made electronically on the parties listed below.

AUSA J.B. Ward
AUSA Ryan Rummage
USPO Chloe Randall

s/ KATHERINE P. LUKER