UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 6:24-cr-00053-RBD-RMN
	)	
SHAWN MICHAEL SIMMERER,	)	
	)	
Defendant.	)	
	)	

DEFENDANT SHAWN MICHAEL SIMMERER'S SENTENCING MEMORANDUM AND REQUEST FOR A DOWNWARD VARIANCE

I. INTRODUCTION

Despite his conviction after trial, the defendant, Shawn Michael Simmerer ("Mr. Simmerer"), presents many positive attributes, which demonstrate that he is fully capable of rehabilitation and redemption as he moves into the second half of his life. As set forth herein, Mr. Simmerer respectfully requests that the Court do its best to recognize these positive characteristics and extend him mercy by granting a downward variance at sentencing. He further requests that the Court give him the opportunity to self-report to his designated federal prison facility.

II. MITIGATING FACTORS THAT JUSTIFY A DOWNWARD VARIANCE

Pursuant to *United States v. Booker,* 543 U.S. 220, 245-67 (2005), a sentencing court is now unencumbered in its ability "to consider every convicted person as an individual and every case as a unique study in the human failings that sometimes mitigate, sometimes magnify, the crime and the punishment to ensue." *Gall v. United States*, 552 U.S. 38, 53 (2007) (quoting *Koon v. United States,* 518 U.S. 81 (1996)).

In order to satisfy § 3553(a), and ensure "that the punishment will suit not merely the offense but the individual defendant[,]" this Court is free to consider "the widest possible breadth of information about" Mr. Simmerer. *Pepper v. United States*, 562 U.S. 476, 488 (2011); *see also* 18 U.S.C. § 3661. The Guidelines are "effectively advisory" and constitute only "one factor among several [that] courts must consider in determining an appropriate sentence." *Kimbrough v. United States*, 552 U.S. 85, 90 (2007) (quotation marks removed). Stated differently, a district court is "not bound" by the Guidelines including their provisions (repealed in 2025) addressing when departures from the otherwise-applicable Guidelines range are appropriate. *See United States v. Strother*, No. 24-4291, 2026 U.S. App. LEXIS 190, at *5, n. 1 (4th Cir. Jan. 6, 2026) (citing *Booker* and U.S.S.G. Ch. 1, Pt. A; U.S.S.G. App. C, amend. 836).

Addressed below are several mitigating factors that Mr. Simmerer asks the Court to consider.

A. Unstable Childhood

Mr. Simmerer was born in 1976 in Miami, Florida. Doc. 290, ¶ 61. His parents separated when he was just two years old and he and his mother moved around a lot when he was growing up. *Id.* at ¶ 61, 63. His biological father struggled with alcoholism and did not achieve sobriety until Mr. Simmerer reached adulthood. *Id.* at ¶ 63. When he was seven years old, his mother married a man who physically abused her in front of Mr. Simmerer. *Id.* More damaging than witnessing his mother's abuse, his step-father exposed Mr. Simmerer to a step-grandfather who, with another male partner, sexually molested the defendant. *Id.* at ¶ 64. Tragically, Mr. Simmerer's mother failed to report the abuse to law enforcement, despite assuring the defendant that she would do so. *Id.*

Eventually, Mr. Simmerer's mother divorced his step-father and moved with the defendant to his grandmother's house for a short period of time before moving yet again. *Id.* at ¶ 63. It is clear that Mr. Simmerer lacked guidance and stability in his childhood, in addition to the abuse he witnessed and experienced. In the undersigned's view, his mother did not prioritize him and was more concerned with her relationships and physical appearance than raising the defendant properly.

Unsurprisingly, Mr. Simmerer struggled in school. He attended "learning development classes" starting in the fifth grade. *Id.* at ¶ 81. He was held back a grade in middle school and struggled with bullying due to his weight. *Id.* Later, he dropped out of high school in the tenth grade. *Id.* He was eventually permitted to have a liposuction procedure at just 18 years old, which indicates how dissatisfied he was with his physical appearance at a young age. *Id.* at ¶ 68.

In sum, Mr. Simmerer's unstable and difficult childhood should serve as mitigating factors at the sentencing. "Pre-*Booker*, '[l]ack of guidance as a youth and similar circumstances indicating a disadvantaged upbringing' were not considered relevant grounds for downward departure . . . . [p]ost-*Booker*, however, [a Defendant's] childhood and lack of education are relevant under § 3553(a)(1) with regard to Defendant's 'history and characteristics.'" *United States v. Mapp*, No. 05-80494, 2007 U.S. Dist. LEXIS 9381, 2007 WL 485513, at *14-15 (E.D. Mich. Feb. 9, 2007). In fact, courts have stated that an "unusually disadvantaged childhood" is a potential mitigating circumstance. *See Spears v. United States*, 555 U.S. 261, 263 (2009); *United States v. Burney*, 992 F.3d 398, 400 (5th Cir. 2021).

B. Caregiving Responsibilities

Despite her shortcomings when he was a child, Mr. Simmerer remains deeply loyal to his mother. The defendant and his mother are financially destitute. Since July of 2025, they have been living with extended family in Winter Haven,

Florida, where they share a single bedroom and bathroom. Doc. 290, ¶ 66. His mother is disabled and has been hospitalized multiple times within the last few years. *Id.* at ¶ 60. She has had numerous surgeries for neck and spine issues, including a fusion procedure. *Id.* As a result, Mr. Simmerer's mother has difficulty ambulating without his assistance. Attached hereto as *Exhibit N* is a photograph of Mr. Simmerer's mother from one of her recent hospitalizations in December of 2025. Later, in February of 2026, she was hospitalized again and diagnosed with heart failure. Attached hereto as *Exhibit O* is a page from her clinical notes from her February 2026 hospitalization. Mr. Simmerer serves as his mother's sole caretaker and he is terrified about what will happen to her while he is incarcerated.

During the pre-*Booker* era, courts have always considered a defendant's unique or extraordinary family circumstances as a potential basis for a sentence below the guidelines. *See e.g.* U.S.S.G. § 5H1.6 (repealed on November 1, 2025); *United States v. Norton*, 218 F. Supp. 2d 1014, 1019 (E.D. Wis. 2002); *United States v. Owens*, 145 F.3d 923, 926 (7th Cir. 1998). Downward departures based on family responsibilities were premised on the notion that "[t]he United States Sentencing Guidelines do not require a judge to leave compassion and common sense at the door to the courtroom." *Norton*, 218 F. Supp. 2d at 1016 (internal citation omitted).

In the post-*Booker* era, where a sentencing judge has the ability to vary from the guidelines without even finding a basis to depart, district courts have routinely

imposed below-guidelines sentences where a defendant's family will be significantly impacted by the defendant's incarceration. *See e.g. United States v. Husein*, 478 F.3d 318, 326 (6th Cir. 2007) (affirming a downward departure from a guidelines range of 40 months imprisonment to a sentence of one day in prison and 270 days home confinement under § 5H1.6; where the defendant lived with and supported her family, cared for her seriously ill father and was irreplaceable and because "[j]ailing [the defendant] not only would have forced her mother to remain at home, but would have put the entire family on welfare"); *United States v. Baker*, 502 F.3d 465, 468 (6th Cir. 2007) (affirming a downward variance that was based on the defendant's family responsibilities, including caring for a son who had received a heart transplant years earlier); *see also United States v. Ordonez*, No. 8:18-cr-427-WFJ-AEP, 2025 U.S. Dist. LEXIS 108498, * (M.D. Fla. June 9, 2025) (Jung, J.) (district court granted "a significant, three-level downward variance [but still imposed a sentence more than what defendant was seeking]. . . based on the Defendant's remorse, family ties and responsibilities in Colombia, and other considerations . . ."). Here, the Probation Office has identified Mr. Simmerer's family ties and responsibilities as a factor that could warrant a sentence below his advisory guideline range. Doc. 290, ¶ 111. Based on the foregoing, he asks the Court to strongly consider this mitigating factor at sentencing.

C. Mental And Physical Health And Substance Abuse History

Mr. Simmerer has been formally diagnosed with "acute stress disorder, panic disorder, generalized anxiety, and major depressive disorder." *Id.* at ¶ 77. He is currently receiving treatment for these conditions. *Id.* Mr. Simmerer is also taking a number of medications to address his mental health conditions. *Id.* at ¶¶ 72-73.

Mr. Simmerer started experimenting with alcohol and controlled substances in his teenage years. *Id.* at ¶ 78. Like many Americans in the last two decades, Mr. Simmerer developed an opioid addiction after he started taking Oxycontin pursuant to a medical prescription for pain. In the 1990s, Mr. Simmerer was involved in two separate motor vehicle accidents. *Id.* at ¶ 69. Since then, he has struggled with physical pain. In 1999, he received his first oxycontin prescription. *Id.* at ¶ 78. He quickly developed a dependence on the powerful drug, which he continued to abuse through 2004. During this period of his life, Mr. Simmerer's thinking and judgment were severely compromised due to his addiction. *See United States v. Hendrickson*, 25 F. Supp. 3d 1166, 1174 (N.D. Iowa 2014) ("By physically hijacking the brain, addiction diminishes the addict's capacity to evaluate and control his or her behaviors. Rather than rationally assessing the costs of their actions, addicts are prone to act impulsively, without accurately weighing future consequences."). It was during this same time frame that Mr.

Simmerer engaged in the most significant offenses in his criminal history. Doc. 290, ¶¶ 49-53.

Thankfully, in 2004, Mr. Simmerer entered a substance abuse program and went through a "rapid detox." *Id.* at ¶ 79. More recently, Mr. Simmerer has lawfully used marijuana for his pain management. He had a medical marijuana card prior to his arrest in this case. *Id.* at ¶ 78. However, after his first drug screen by Pretrial Services where he tested positive for marijuana, he has consistently tested negative for controlled substances. *Id.* at ¶ 80.

Mr. Simmerer has reported being in poor health. He was hospitalized twice in the last two years with symptoms that were consistent with a transient ischemic attack ("TIA"). *Id.* at ¶¶ 71, 75. One of these hospitalizations occurred during his trial. A CT scan and laboratory tests during this hospitalization cleared him of a stroke but Mr. Simmerer was also given discharge instructions for a TIA. *Id.* Attached hereto as *Exhibit A* are these discharge instructions. This month, Mr. Simmerer was hospitalized again at Winter Haven Hospital. Attached hereto as *Exhibit B* are medical documents from this most recent hospitalization. According to these records, Mr. Simmerer was admitted on June 3, 2026 under an "emergency medical condition" related to chest pains, shortness of breath, and bilateral leg swelling. *Exhibit B* at 19. During this hospitalization, his blood work demonstrated some abnormal levels in certain testing categories. *Id.* at 24-28.

After receiving treatment at the hospital, Mr. Simmerer was discharged with a diagnosis of a "panic attack." *Id.* at 21. However, Mr. Simmerer has reported to the undersigned that he continues to feel pain and does not believe his symptoms are improving. He is scheduled to see his primary care physician tomorrow, June 10, 2026, for a follow-up visit and testing because his Troponin levels are high.

Debra Franzen, Mr. Simmerer's psychiatric nurse practitioner, has provided a letter, a copy of which was submitted to the Probation Office, concerning the current prescription regimen the defendant is receiving to address his mental health conditions. Doc. 290, p. 40, ¶ 73. Mr. Simmerer has also received a copy of the same letter, which was endorsed by his treating physician, Dr. Denise Barnard, and is attached hereto as *Exhibit C*. According to this letter, Mr. Simmerer takes the following medications: Diazepam 10 mg four times daily and Hydroxyzine HCI 25 mg four times daily. *Exhibit C*, Doc. 290, p. 40, ¶ 73. Additionally, Mr. Simmerer has documented allergies and/or intolerances to pharmacologic alternatives to these medicines, specifically SSRIs and SNRIs. *Id.* The current combination of prescriptions has "demonstrated long-term efficacy and tolerability with no adverse side effects or misuse." *Id.* Additionally, his treating psychiatric team believe that the abrupt discontinuation or change in Mr. Simmerer's medication regimen "presents serious and potentially life-threatening medical risk, including acute withdrawal seizures, severe autonomic instability,

cardiac irregularities, and respiratory distress." *Id.* Based on the foregoing, his treating psychiatric professional opined that "uninterrupted continuation of this regimen is medically necessary to preserve Mr. Simmerer's health and safety." *Id.* The pharmacy instructions that Mr. Simmerer received with regard to his current medication regimen echoes the medical opinion of his treating psychiatric team. Attached hereto as *Exhibit D* are the personal prescription instructions that Mr. Simmerer received from his pharmacy, which state that immediate cessation of taking his prescriptions "can be life-threatening." *Exhibit D*.

Mr. Simmer is concerned that if he is detained at a local jail prior to being transferred to his designated Bureau of Prisons ("BOP") facility, he will not receive his specific medications and will experience serious medical side effects from the immediate discontinuation of these prescriptions. Accordingly, he requests that the Court permit him to self-surrender to his designated BOP facility. Additionally, this Court is well-versed in the BOP's inability to provide adequate medical care in certain contexts. Mr. Simmerer reported that during his last period of incarceration with the BOP he experienced "seizures and panic attacks." Doc. 290, ¶ 70. Based on Mr. Simmerer's poor health and his complicated medical history, he asks the Court to consider the quality of medical care (or lack thereof) that he will receive during his incarceration as yet another mitigating factor at sentencing.

D. Conduct While On Pretrial Services Supervision

Additionally, this Court should consider Mr. Simmerer "as he stands before the court on the day of sentencing." *Pepper*, 562 U.S. at 492 (internal citation omitted). Since his arrest in March of 2024, Mr. Simmerer has avoided any new law violations and has fully complied with his pretrial release conditions. Doc. 290,¶ 11. Thus, for over two years, he has followed the rules and avoided trouble. His conduct while on pretrial supervision further supports his request for a downward variance. *See e.g. United States v. Baker*, 502 F.3d 465 (6th Cir. 2007) (where defendant pled guilty to possession of unregistered firearms arising from an altercation with his wife during which a gun was accidentally discharged and the guideline range was 27-33 months; a below-guideline sentence of probation with one year house arrest was found to be proper based in part because the defendant behaved "exceedingly well" while under the supervision of pretrial services); *United States v. Munoz-Nava*, 524 F.3d 1137 (10th Cir. 2008) (in a drug case where the guideline range was 47 to 56 months, the district court's sentence of one year and a day in prison and one year of home detention was found to be reasonable, in part, because of defendant's "behavior while on a year-and-a-half pretrial release, which the district court found to be exemplary" evidence that the defendant was unlikely to reoffend).

E. Mitigating Factors Present In the Nature And Circumstances Of The Offense

Mr. Simmerer's offenses are serious. At trial, the jury returned guilty verdicts finding that he committed PPP loan fraud, a crime that unfortunately many Americans fell prey to during the COVID-19 pandemic.[1] However, there are some unique distinguishing factors that are mitigating in Mr. Simmerer's case. Unlike some defendants, the trial evidence did not indicate that he immediately took the PPP loan funds and purchased luxury items like a sports car, boat, or jewelry. Based on the trial evidence, it is clear that part of what motivated him was his dream of making Your 10 Life Foundation, the leadership training company he founded, into a success. Notably, this business was formed and had been in operation before the pandemic. Unfortunately, Mr. Simmerer's grasp was well beyond his reach. He made the poor decision of hiring employees and promising them salaries. This was not a realistic goal given the scale and operation of Your 10 Life Foundation. When COVID-19 hit, the ability of the foundation to operate was severely compromised and some of the PPP loans that were unlawfully sought were used to pay salaries to employees of the company, including Mr. Simmerer and his co-defendant. The trial evidence indicated that

[1] Mr. Simmerer's post-verdict motions, including a motion for a judgment of acquittal and a motion for a new trial remain pending. Docs. 243, 244. Therefore, any statements made herein concerning the offense conduct should not be construed as any form of admission on Mr. Simmerer's part.

Your 10 Life Foundation had no payroll and that no employees had received actual salaries prior to the PPP loans. However, Mr. Simmerer and his co-defendant were not the sole beneficiaries of the fraud in this case. Other individuals, including several of the government's witnesses at trial, also profited from the PPP loans.

Additionally, Mr. Simmerer's intended loss figure overstates the seriousness of his offense, especially in light of the fact that the actual loss is $344,300, which is significantly less than the guidelines loss figure that is being used to determine his advisory imprisonment range. Doc. 290, ¶¶ 9, 28, 35. This serves as yet another reason for the Court to grant a downward variance. *See United States v. Johnston*, 620 F. App'x 839, 857 (11th Cir. 2015) (per curiam) (internal citations omitted) (". . . in cases in which the loss calculation substantially overstates the seriousness of the offense, a downward departure may be warranted."); *United States v. Rosen*, 726 F.3d 1017, 1027 (7th Cir. 2013) (internal citations omitted) ("a court can consider the amount of variance between the intended loss and the realistic possibility of loss when considering an appropriate sentence.").

F. The Lack Of Empirical Evidence Linking Incarceration With Deterrence

Empirical data undermines any link between lengthy imprisonment and greater deterrence of white-collar crimes. *See, e.g., United States v. Adelson*, 441 F.

Supp. 2d 506, 514 (S.D.N.Y. 2006) ("[T]here is a considerable evidence that even relatively short sentences can have a strong deterrent effect on prospective 'white collar' offenders."); U.S. Sent'g Comm'n, *Measuring Recidivism: The Criminal History Computation of the Federal Sentencing Guidelines* (May 2004), available at https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2004/200405_Recidivism_Criminal_History.pdf (last visited June 9, 2026) (research study concluding that fraud had the lowest rearrest rate for recidivism offenders when compared with firearms offenses, robbery, immigration, drug trafficking, larceny, and others); Lucian E. Dervan, *White Collar Overcriminalization: Deterrence, Plea Bargaining, and the Loss of Innocence*, 101 KY. L.J. 723, 740–41 (2012–13) (arguing that the length of a carceral sentence is irrelevant to deterrence of white-collar offenders). Further, the Department of Justice previously agreed that overly incarcerating defendants is not an effective means of deterrence. *See* U.S. Dept. of Justice, Nat'l Inst. of Justice, *Five Things About Deterrence* (May 2016), available at https://www.ojp.gov/pdffiles1/nij/247350.pdf (last visited June 9, 2026) (finding that "the data show long prison sentences do little to deter" and stating that "police deter crime by increasing the perception that criminals will be caught and punished"). Thus, the risk of indictment and conviction itself has a significant and adequate deterrent effect. *See* Daniel S. Nagin & Greg Pogarsky, *Integrating Celerity, Impulsivity, and Extralegal Sanction Threats into a Model of General*

Deterrence: Theory and Evidence, 39 CRIMINOLOGY 865, 865 (2001) (certainty of apprehension and punishment generally, and not certainty of imprisonment, is what reduces crime).

Similarly, the empirical evidence does not establish a correlation between sentence length and specific deterrence. *See* National Institute of Corrections, *Myths and Facts, Why Incarceration is Not the Best Way to Keep Communities Safe* (2016), attached hereto as *Exhibit E*. On the other hand, "[a]n overly harsh sentence may prove counterproductive, increasing a defendant's likelihood to recidivate." *United States v. Simons*, 375 F. Supp. 3d 379, 384 (E.D.N.Y. 2019) (internal citation omitted); *see also* Donald P. Green & Daniel Winik, *Using Random Judge Assignments to Estimate the Effects of Incarceration and Probation on Recidivism among Drug Offenders*, 48 Criminology 357 (2010) (study of over a thousand offenders whose sentences varied substantially in prison time and probation found that such variations "have no detectable effect on rates of re-arrest," and that "[t]hose assigned by chance to receive prison time and their counterparts who received no prison time were re-arrested at similar rates over a four-year time frame"). Stated differently, prison, by disrupting education and employment, reducing prospects for future employment, weakening family ties and exposing less serious offenders to older more serious offenders, has the potential to actually increase recidivism.

See Criminogenic Effects of Imprisonment: Evidence from State Panel Data 1974-2002, 6 Criminology & Public Policy 589 (2007).

Here, Mr. Simmerer committed non-violent fraud offenses. He is turning 50 years old later this summer. As defendants reach middle age or older, their risk of recidivism declines. In fact, the Sentencing Commission has found "that younger offenders were more likely to be rearrested than older offenders, were rearrested faster than older offenders, and committed more serious offenses after they were released than older offenders." *See* U.S. Sent'g Comm'n, *Effects of Aging on Recidivism Among Federal Offenders*, Dec. 2017, available at https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2017/20171207_*Recidivism*-Age.pdf (last visited on June 9, 2026) at 28. The Commission further noted that for those defendants age 50 and older there was a median range of one arrest during an eight-year follow-up period in comparison to three arrests for defendants younger than 30 during the same follow-up period. *Id.*; *see also Simon v. United States*, 361 F. Supp. 2d 35, 48 (E.D.N.Y. 2005) (basing variance in part on defendant's age of 50 upon release because recidivism drops substantially with age); *United States v. Nellum*, No. 2:04-CR-30 PS, 2005 U.S. Dist. LEXIS 1568, at *8-9 (N.D. Ind. Feb. 3, 2005) (granting variance to a 57-year-old defendant because recidivism drops with age and noting that likelihood of recidivism was "very low"); *United States v.*

Phinney, 599 F. Supp. 2d 1037, 1041-1046 (E.D. Wisc. 2009). Here, Mr. Simmerer's age upon release is another mitigating factor indicating his risk of recidivism will be significantly reduced going forward.

G. The Need To Avoid Unwarranted Disparities

Section 3553(a)(6) forbids not all sentencing disparities but only "unwarranted" ones "among defendants with similar records who have been found guilty of similar conduct." 18 U.S.C. § 3553(a)(6). The granting of a downward variance for Mr. Simmerer would not create unwarranted disparity. In fact, other defendants convicted of PPP loan fraud have received sentences below Mr. Simmerer's advisory guideline range. *See e.g.*, *United States v. Casey Crowther*, No. 2:20-cr-00114-JES-M_M (M.D. Fla. June 29, 2021) (Doc. 164) (Steele, J.) (press release available at https://www.justice.gov/usao-mdfl/pr/fort-myers-businessman-sentenced-three-years-federal-prison-covid-relief-fraud-and) (37 months imprisonment for a Fort Myers businessman who sought and obtained $2.1 million in PPP loans and also participated in a $1.3 million mortgage fraud scheme; defendant used some proceeds to purchase a $700,000 boat; defendant was convicted after trial); *United States v. Samer Kammo*, No. 2:23-cr-20296-JJCG-APP (E.D. Mich. Feb. 17, 2026) (Doc. 98) (Grey, J.) (press release available at https://www.justice.gov/usao-edmi/pr/shelby-township-resident-sentenced-multi-million-dollar-pandemic-assistance-fraud) (defendant received a sentence

of 36 months imprisonment for his role in a $2.5 million PPP loan fraud scheme; restitution in the same amount was ordered indicating that the government did not recover the money); *United States v. Joshua Bellamy*, No. 0:21-cr-60064-RKA (S.D. Fla. Dec. 14, 2021) (Doc. 60) (Altman, J.) (press release available at https://www.justice.gov/archives/opa/pr/former-nfl-player-sentenced-more-three-years-prison-covid-19-relief-fraud) (former NFL player sentenced to 37 months imprisonment for fraudulently obtaining $1.2 million in PPP loans and using funds on personal items such as jewelry and Casino trips; this defendant also sought PPP loans for family and close associates and paid kickbacks to a co-conspirator); *United States v. Jesika Blakely*, No. 1:20-cr-00296-JPB-CMS (N.D. Ga. Feb. 8, 2023) (Doc. 631) (Boulee, J.) (press release available at https://www.justice.gov/usao-ndga/pr/fraudster-receives-prison-sentence-illegal-paycheck-protection-program-scheme) (defendant sentenced to 36 months imprisonment and ordered to pay $5,348,498.89 in restitution, thus true loss amount was significant).

In addition, Judiciary Sentencing Information ("JSIN") statistics compiled by the Sentencing Commission for similarly situated defendants demonstrates that over the last five fiscal years those offenders whose primary guideline section, offense level, and criminal history category were the same as Mr. Simmerer, received an average sentence of 57 months imprisonment. *See* U.S. Sent'g Comm'n,

Judiciary Sentencing Information (available at https://jsin.ussc.gov/analytics/saw.dll?Dashboard) (selecting primary guideline U.S.S.G. § 2B1.1, criminal-history category III, and total offense level 25) (results attached hereto as *Exhibit F*). Other courts have relied on data from JSIN in determining the appropriateness of a sentence. *See e.g. United States v. McDaniel*, 59 F.4th 975, 979 (8th Cir. 2023); *United States v. Arias*, Case No. 3:11-cr-00494-HZ-1, 2023 U.S. Dist. LEXIS 54891, at *6 (D. Or. Mar. 28, 2023); *United States v. Lampkin*, Case No. 3:15-cr-00005-SLG, 2023 U.S. Dist. LEXIS 140971, at *4 (D. Alaksa Aug. 11, 2023).

H. Community Support

Despite his struggles and the outcome of his recent trial, Mr. Simmerer continues to have strong support from members of his community. Attached hereto are the following character letters submitted by several individuals, many of whom have known Mr. Simmerer for decades:

Exhibit G: Letter from Charles Massab, a realtor who met Mr. Simmerer through transformational training and characterized him as a "Kind, Caring, friendly, nice, easy to work with, a good dresser, polite, he had a desire to help people and was invested and committed to excellence in the training and helping people. [sic.]." *See Exhibit G*.

Exhibit H: Letter from Samuel Robert Garwood, who has known Mr. Simmerer since 2012. *Exhibit H.* Mr. Garwood employed Mr. Simmerer at his HVAC business for five years and trusted the defendant with his personal and business accounts and passwords. *Id.* Mr. Garwood characterized Mr. Simmerer as "honest and fair in his business and personal relationships." *Id.* Notably, Mr. Garwood wrote to the Court that he has a job waiting for Mr. Simmerer back in Michigan once he completes his sentence in this case. *Id.* Mr. Garwood also confirmed that Mr. Simmerer is the "sole caretaker" for his 71 year old mother who has experienced "medical complications from her most recent surgery." *Id.*

Exhibit I: Letter from Kristine Burr, who has known Mr. Simmerer since 2011 and provided the following information:

> Throughout our acquaintance, Shawn has consistently demonstrated integrity and authenticity. He approaches others with kindness and fairness, possessing a natural ability to inspire trust. Shawn genuinely seeks the good in others and gives of himself freely to support those around him. . . . . Additionally, Shawn is a devoted caretaker to his mother. He has embraced this responsibility with love and dedication, viewing it as an opportunity to give back rather than as a burden. His attentiveness further demonstrates his compassion and sense of responsibility.

See Exhibit I.

Exhibit J: Letter from Heather Lynne Horning who did "a great amount of volunteer work in Florida" with Mr. Simmerer for "several years." *Exhibit J.* According to Ms. Horning, Mr. Simmerer is "a dependable person, consistently

showing up for others, professional and courteous." *Id.* She further wrote that "he dedicated himself to being in service to other people and supporting them in their dreams." *Id.*

Exhibit K: Letter from Carol Lineberry, a Doctor of Nursing Practice, who met Mr. Simmerer in 2019 through his Your 10 Life Foundation. *Exhibit K*. Ms. Lineberry praised Mr. Simmerer with helping her move past self-doubt and negativity in her life. *Id.* She specifically wrote "I am now thriving both personally and professionally, and I attribute much of the mindset shift that made this possible to the encouragement and perspective I gained through my friendship with Shawn." *Id.*

Exhibit L: Letter from Terezinha Gonzalez, who knew Mr. Simmerer since he was a ten year old boy. *Exhibit L*. In her letter, Ms. Gonzalez described the kindness Mr. Simmerer exhibited starting at a young age. *Id.* Specifically, she described him giving her son money for medicine she needed. *Id.* She also described how Mr. Simmerer regularly helped an elderly woman who lived in the same condominium as Mr. Simmerer's family. *Id.*

Exhibit M: Letter from Claudia Marrera, a transformational leadership coach who has known Mr. Simmerer since 2012. *Exhibit M*. She wrote that she has witnessed Mr. Simmerer "work tirelessly toward projects he believed would positively impact others." *Id.* She also candidly observed that she witnessed him

"struggle with impulsivity and poor judgment under pressure" but she also believed "he is capable of growth and rehabilitation." *Id.*

In sum, Mr. Simmerer has the kind of support that speaks to his positive character and his genuine desire to help others. He is a compassionate and loving person whose life will be disrupted and irreparably impacted by another felony conviction and a period of incarceration. He humbly begs this Court to consider the good with the bad and extend him a grant of mercy at sentencing.

III. CONCLUSION

Based on the arguments and authority set forth herein, as well as the information attached hereto, Mr. Simmerer respectfully requests that this Court grant a downward variance and impose a sentence that is "sufficient, but not greater than necessary." 18 U.S.C. § 3553(a). He further asks the Court to permit him to self-surrender to his designated BOP facility. Lastly, he respectfully asks that the Court recommend that he be designated to a BOP facility that can accommodate his current prescription regimen.

Respectfully submitted this 9th day of June, 2026.

/s/ Andrew C. Searle
ANDREW C. SEARLE, ESQ.
Florida Bar No. 0116461

CERTIFICATE OF SERVICE

I hereby certify that on June 9, 2026 I electronically filed the foregoing with the clerk of the court by using the CM/ECF system, which will send a notice of electronic filing to all parties of record.

/s/ Andrew C. Searle
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