

1 First Call Legal Services, Inc.
2 600 W. Broadway Ste. 700
3 San Diego, Ca 92101
4 (760) 690-3999
5 Joseph T. Hitrec, Esq.
6 Email:immigration182@gmail.com
7 Attorney for Defendant SANDU, Constantin Bobi

8 UNITED STATES DISTRICT COURT
9
10 SOUTHERN DISTRICT OF CALIFORNIA

11 UNITES STATES OF AMERICA,
12 Plaintiff,

13 vs.

14 SANDU CONSTANTIN BOBI,
15 Defendant

Case No.: 23CR0386-LAB

MEMORANDUM IN AID OF SENTENCING
ON BEHALF OF DEFENDANT
SANDU,CONSTANTIN BOBI
DATE: NOVEMBER 20,2023
TIME:2:00PM

16 1.INTRODUCTION

17 Counsel for SANDU, Constantin Bobi (hereinafter Sandu) respectfully submits this
18 Memorandum to help the Honorable Court determine an appropriate sentence for his conviction
19 in the present case. As per the Plea Agreement, the present offence level is 26, reducible to level
20 22. His Criminal History is Category 1. Counsel for Defendant received the Presentence
21 Investigative Report (PIR) on September 15,2023. Counsel for Mr. Sandu takes exception to the
22 recommendation of Probation, on page 17, paragraph 95, that Mr. Sandu be sentenced to 72
23 months. This felony conviction will ultimately result in his Removal from the United States and
24 prohibit any future reentry. The brief benefit that he received from this misconduct has nullified
25 any further opportunity for him to be in this country.
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28 MEMORANDUM IN AID OF SENTENCING ON BEHALF OF DEFENDANT SANDU,CONSTANTIN
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1 We do not do not apologize for, nor excuse in any manner the seriousness of the offense
2 committed by Mr. Sandu. However, as discussed, the proposed sentence as per the Plea
3 Agreement, is along with any other conditions that the Court may deem appropriate- is no greater
4 punishment than necessary to serve the ends of sentencing, and the interests of justice.
5

6 II. FACTORS IN SUPPPORT OF THE PROPOSED SENTENCE

7 A. Nature of the Offense

8 Federal felonies are, by definition, serious offences. Mr. Sandu's theft has been fully
9 acknowledged. **NO** elements of force, violence, intimidation, threats or coercion were involved.
10 Mr. Sandu fully acknowledges that his motive was personal benefit. Despite the number of
11 individuals and the amounts involved, it is acknowledged that Mr. Sandu's gain was about
12 \$60,000.00 Mr. Sandu used his money to help his family in Romania. Page 12, paragraph 54, of
13 the PIR details his life experience. He is a member of the Romani community. The term "gypsy"
14 is deemed pejorative by the Romani people and therefor is not used. The Romani have been
15 traditional persecuted through history. Romania did not abolish slavery until about 1875, and
16 slavery meant the Romani people. The Romani were thereafter subjected to a brutal serfdom. In
17 the 1930's they were viciously persecuted, along with the Jewish community, by the Romanian
18 Fascist Iron Guards. During WWII General Ion Antonescu, the fascist dictator of Romania,
19 colluded with Adolph Hitler, and subjected the Romani, along with the Jewish community, to
20 extermination in Auschwitz, Treblinka, Dachau, Majdanek, Sobibor among other places. After
21 WWII in the former Communist Czechoslovakia, tens of thousands of Romani women were
22 forcibly sterilized. Documentation for same has only recently become available. During the
23 communist era in Romania, if the Romani complained, they were subject to persecution. Mr.
24

25 Sandu's home town of Pitesti was notorious for its prison where political prisoners were held in
26

1 deplorable conditions. The Romani community never had a Martin Luther King or Nelson
2 Mandela to advocate their rights. To this day, the Romani continued to be persecuted in
3 Romania, and the perpetrators of torture and persecution are very rarely sanctioned. The situation
4 of the Romani is unique enough that for purposes of Immigration Law they are deemed to be a
5 Particular Social Group See. *Mihalev v. Ashcroft* 388 F3d. 722 (9th Cir. 2994). Attached hereto
6 as Exhibit "1" is a seven-page report from Amnesty International which provides a succinct
7 overview of the suffering of the Romani.
8

9 B. Nature of the Offender

10 Mr. Sandu is a devoted husband and father of his children. PIR- Page 12, paragraphs 55 and 56.
11 He has very limited formal education as a result of the structural impediments in Romania
12 against his community. His opportunity for formal avenues of employment and advancement,
13 were, and remain, extremely limited. It was desperation rather than greed, that was the
14 controlling factor in this course of conduct. Mr. Sandu has fully accepted responsibility and has
15 displayed remorse for what occurred.
16

17 C. Mr. Sandu poses extremely low risk of reoffending.

18 1. Sentencing Commission Research

19 a. Zero Criminal History Points

20 Mr. Sandu has never been in trouble before either in the United States or elsewhere. The
21 Sentencing Commission notes "that first offenders are less culpable than other offenders. /1/ It
22 found that "sentence reductions for 'first offenders' are supported by the recidivism data and
23 would recognize their lower reoffending rates"

24 The Sentencing Commission has determined that criminal history points better forecast the risks
25 of re-offense than the Criminal History Category/2/. Offenders like Mr. Sandu with zero criminal

1 history points recidivate just 11.7% of the time. Offenders with even one criminal history point
2 re-offend at almost twice that rate, 22.6%/3/

3 b. Other Demographic indicators

4 Recidivism rates are influenced most by a defendant's personal characteristics such as (1) family
5 ties and marital status (2) level of education (3) lack of substance abuse (4) history of
6 employment. Mr. Sandu presented a long history of strong family ties. He has no history of
7 abuse alcohol or drugs. As stated, his history of employment was mainly manual labor in
8 agriculture and other low level service work. This goes hand in hand with the fact that
9 educational opportunities were denied to him by the Romanian government and society.
10 Furthermore, recidivism rates decline relatively consistently as age increase," from 35.5% of
11 offenders under age 21 to 12.7% over age 40. Mr. Sandu is now 34 years of age/4/

12 Larceny offenders studied by the Sentencing Commission recidivated around 19% of the time,
13 less often than most other groups of offenders. /5/

14 III.CONCLUSION

15 We recognize that respect for the law, and deterrence requires just punishment. Too harsh a
16 sentences fail to respect the law just as much as too lenient a sentence. It violates this statute
17 requiring the sentence to be no greater than necessary/6/

18 Given this case's singular circumstances, it is requested that Mr. Sandu be sentenced in
19 accordance with the Plea Agreement, and with such other conditions as the Court may deem
20 appropriate.

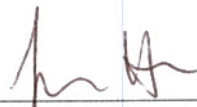
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1 Date: 09/28/2023

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5 Joseph T. Hitrec
6 Attorney at Law

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9 1. U.S.S.C. "recidivism and the First offender," at 9 (Release 2, May 2004)

10 <http://www.ussc.gov/Research/Research Publications/Recidivism/200405 Recidivism First>
11 offender.

12 2. U.S.S.C. "The Criminal History Computation," at 7.

13
14 3. See "Recidivism and the First Offender," at 13-14

15 4. U.S.S.C. "Criminal History Computation" at 12 and 28, Exhibit. 9 (showing recidivism rates
16 just 6.9% for offenders between 40 and 50 and in Criminal History I).

17 5. See U.S.S.C., "Criminal history Computation" at 13.

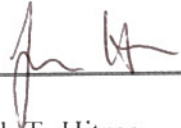
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19 6. See Justice Anthony Kennedy, Testimony before the Senate Judiciary Committee, February
20 14, 2007 ("Our sentences are too long, our sentences re too severe, our sentences are too
21 harsh...there is no compassion in the system. There's no mercy in the system.")

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CERTIFICATE OF SERVICE

I certify that I have served a copy of the foregoing Memorandum in Aid of Sentencing on behalf of SANDU, Constantin Bobi Case No.23CR0386LAB upon AUSA Jessica A. Schulberg, and US Probation Officer Ms. Jill Johnson-Pogue by electronically filing the foregoing with the Court using the electronic filing system.

First Call Legal Services Inc.

/s/ 
Joseph T. Hitrec