

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

UNITED STATES OF AMERICA	)	
	)	
v.	)	CAUSE NO. 2:21-cr-154
	)	
JEFFERY BOYLETT	)	

SENTENCING MEMORANDUM

Comes now the United States of America through its counsel Clifford D. Johnson, United States Attorney, and Thomas McGrath, Assistant United States Attorney, and makes the following arguments concerning the defendant's sentence.

I. Guideline calculation

The PSR places the defendant's total offense level under the guidelines as **13** and his criminal history category as III for a suggested guideline range of **18 to 24** months.

II. Plea Agreement

In the plea agreement, the Government agreed to recommend a sentence at the minimum of the guideline range. The defendant agreed to pay restitution and a money judgment both totaling \$109,900 which represents both the loss to the victim in this case, the federal government through the SBA, and the Defendant's profit.

III. Objections to the PSR

There are no objections to the PSR from either party.

IV. Government Recommendation

The Government recommends a sentence of 18 months imprisonment.

V. Section 3553(a) Analysis

Nature and Circumstances of the Crime

The Government is asking for a sentence at the minimum of the guideline range. The nature and circumstances of this case warrant a guideline sentence. When the Covid-19 pandemic caused much of the Country and the businesses within the Country to have to close their doors, the Government through the Small Business Administration decided to ensure the viability of small businesses by extending grants and forgivable loans to existing businesses. It was an extraordinarily large undertaking whereby over 300 billion was distributed by the agency through the Economic Injury Disaster Loans Program (EIDL) over a relatively short period of time. Such an effort required the good faith participation of those applying so that desperately needed money could reach those who needed it without delay. The size and scope of this endeavor also left it susceptible to fraud from those willing to misrepresent their positions in order to steal from emergency funds for their own personal benefit. The Defendant in this case saw an opening and created a false business in order to induce the SBA to give him money he

was not entitled to. He and thousands of others not only cheated the Small Business Administration, but also the taxpayers, the SBA, and those businesses that were legitimately entitled to EIDL funds. The nature and circumstances of the fraud warrant a sentence at the low end of the guidelines.

History and Characteristics of the Defendant

The history and characteristics of the Defendant warrant a guideline sentence. The Defendant has several prior convictions including one drug related convictions and one resisting arrest conviction. While not an extensive history, the Government's position is that it is necessary to differentiate this Defendant from those that commit crimes with no criminal history. To do that, it is recommended that the Court remain within the guideline range and sentence the Defendant to 18 months imprisonment.

Other 3553(a) factors

The Court should consider the need for specific and general deterrence. One of the sentencing goals under §3553(a) is to warn the defendant and the general public that committing this type of fraud will have consequences. There have been reports of rampant fraud among those applying for Covid relief through EIDL loans, PPP loans, or unemployment benefits. This type of behavior not only hinders the Country's ability to react to a current crisis, but also imperils its ability, or will, to help its citizens in future crises. The

message should be delivered that the theft of funds meant for others in an emergency will have appropriate repercussions. A sentence lower than the guideline recommendation would make such a fraud scheme attractive due to the fact that the rewards are high, the risk of detection low, and the sentencing consequences are limited.

For the reasons stated above, the Government requests a guideline sentence of 18 months incarceration with a term of supervised release to follow. The Government also requests that this Court order the Defendant to pay \$109,900 in restitution and order a money judgment for the same amount.

Respectfully Submitted,

CLIFFORD D. JOHNSON
UNITED STATES ATTORNEY

By: /s/ Thomas M. McGrath
Thomas M. McGrath
Assistant United States Attorney