

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION**

UNITED STATES OF AMERICA	)	
	)	
vs.	)	CASE NO. 5:23-CR-009
	)	
KYLE WALDRON	)	

SENTENCING MEMORANDUM

COMES NOW, Kyle Waldron, Defendant in the above-styled matter, by and through undersigned counsel (“Counsel”), and submits this Sentencing Memorandum to assist the Court in fashioning a reasonable sentence to comply with 18 U.S.C. § 3553(a) as follows:

I. PROCEDURAL BACKGROUND AND INTRODUCTION

Mr. Waldron was charged in *United States v. Kyle Waldron* 5:23-cr-00009 . He is charged in this Information with violating 18 U.S.C. 1957(a) , (Money Laundering involving Transactions Greater Than \$10,000.00) . Having pled guilty on November 27, 2023 (Doc. 23) Mr. Waldron is scheduled to appear before this Honorable Court on April 11, 2024 for sentencing.

Mr. Waldron’s sentencing guideline range, as calculated by the US Probation pursuant the United States Sentencing Guidelines (“USSG”) and reflected in the Pre-Sentence Report (“PSR”), is based upon a total offense level of 15 and a criminal history category of I, resulting in a guideline imprisonment range is 18 months to 24 months. The United States in a sealed Motion Pursuant to U.S.S.G 5K.1 has recommended a custodial sentence of 15 months.

Tor the reasons set forth herein, Mr. Waldron respectfully requests the Court vary further downward and sentence him to a period consistent with the elements regarding U.S.C. 3355 and in any event

sentence him to no more than 15 months as the United States has recommended.

II. **PERSONAL BACKGROUND**

Mr. Waldron was born on February 22, 1965, in Ocilla , Georgia . He has otherwise been a lifelong resident of Coffee County, Georgia. He is married to Kelly Waldron. They are in the process of divorcing. They have two sons Elijah “Eli” Waldron, age 25 who lives with Mr. Waldron while he attends college at the University of Georgia’s Tifton campus. Eli is also employed by Deep South Farm Products as a chemical salesperson and truck driver. Kyle Luke Waldron, age 21, lives in Athens, Georgia, where he is pursuing a teaching degree from the University of Georgia. Mr. Waldron advised that Luke would like to attend law school after graduation. It is also noted that per the final Pre-Sentence Report (D 33) at paragraph 55 that Mr. Waldron had multiple surgeries in 2022 and 2023 to repair a detached retina in his right eye. The issues with his eyes continue.

III. **SENTENCING CONSIDERATIONS**

Mr. Waldron’s criminal history and background is detailed in the PSR. He has no objections to the facts and calculations reached by US Probation in the PSR. He fully accepts responsibility for his role in the information as outlined in the PSR (Doc. 33) and plea agreement (Doc 22).

Mr. Waldron agrees that the USSG calculation reached by US Probation in the PSR is factually and legally correct which is a total offense level of 15 and a criminal history category of I, resulting in a guideline imprisonment range is 18 months to 24 months.

However, as is discussed below, there are additional factors the Court need consider to achieve the goals of 18 U.S.C. § 3553(a)(2). Though the calculation is agreed upon the USSG range is not needed, necessary, nor reasonable to: (1) satisfy just punishment. (2) does not likely prevent further crimes by Mr . Waldron ; nor does it (3) provide rehabilitative treatment or services in the most effective manner for Mr. Waldron . *See* 18 U.S.C. § 3553(a)(2). Thus, because the guidelines

have been properly applied, Mr. Waldron’s option for an appropriate sentence must result from either a departure from the guidelines or a variance from said guideline range, or the Court’s adoption of the recommendation of the United States.

According to the Ninth Circuit,

[a] “departure” is typically a change from the final sentencing range computed by examining the provisions of the Guidelines themselves. It is frequently triggered by a prosecution request to reward cooperation...or by other factors that take the case “outside the heartland” contemplated by the Sentencing Commission when it drafted the Guidelines for a typical offense. A “variance”, by contrast, occurs when a judge imposes a sentence above or below the otherwise properly calculated final sentencing range based on application of the other statutory factors in 18 U.S.C. § 3553(a).

United States v. Rangel, 697 F.3d 795, 801 (9th Cir. 2012) (citing *United States v. Cruz- Perez*, 567 F.3d 1142 (9th Cir. 2009)).

The Court has the authority and ability, based on *United States v. Booker*, 543 U.S. 220 (2005), and the § 3553(a) factors, to vary downward and sentence Mr. Waldron below the calculated guideline range of 18 months to 24. As such, Mr. Waldron requests that, upon consideration of the relevant §3553(a) factors and the motion filed by the sealed United States, the Court sentence him to a reasonable term 13 months as such a sentence is a reasonable and appropriate sentence for which the type and length is “sufficient, but not greater than necessary,” to comply with 18 U.S.C. § 3553(a).

A. **Reasonableness under 18 U.S.C. § 3553(a)**

In short, the core provision of the USSG is found at 18 U.S.C. § 3553(a), wherein the district court must impose a sentence “sufficient, but not greater than necessary,” to comply with the purposes set forth in § 3553(a)(2) and impose a sentence that reflects the seriousness of the offense, promoting respect for the law, deterring criminal conduct, and protecting the public from the defendant's future criminal conduct. *See* 18 U.S.C. § 3553(a)(2). The court must also consider the nature and circumstances of the offense, the history and characteristics of the defendant, the kinds

of sentences available, the applicable guidelines range, the pertinent policy statements of the Sentencing Commission, the need to avoid unwarranted sentencing disparities, and the need to provide restitution to victims. *Id.* § 3553(a)(1), (3)–(7). As such, Mr. Waldron respectfully presents a non-exhaustive list of relevant 18 U.S.C. § 3553(a) considerations to the present case:

i. **Restitution**

The recommendation of the United States Probation Officer is that Mr. Waldron pay restitution in the amount of \$1,371,219.24 (D.33) Contemporaneously with the charges which resulted in this action the United States Attorney filed *United States of America v. \$326,461.33* (5:23-cv-00066) in *U.S. Currency Seized From Douglas National Bank Account Ending in 6227* “Forfeiture Action”. The amount seized in the “Forfeiture Action” was \$326,461.33 . The complaint (D.1) “Forfeiture Action” alleged that the funds being seized for forfeiture were the same funds subject to the allegations in *United States v. Kyle Waldron* 5:23-cr-000009, the subject of this proceeding. These funds were forfeited as reflected in the Court’s judgment on October 6, 2023 (D. 9), awarding said sums to the United States. To this date the government has not committed to attributing the funds seized as a result of “Forfeiture Action” to the amount of restitution Mr. Waldron will be responsible for repaying. Mr. Waldron respectfully requests that either the amount seized in the “Forfeiture Action” be attributed to the sums he must repay or the Court reduce the amount of restitution in the Court’s final order to reflect the funds seized by the Government which were indisputably derived from the proceeds of the funds involved in this action. That amount would be , if offset is ordered \$1,044,757.91.

ii. **Surrender Date**

As indicated in the Final Pre-Sentence Report Mr. Waldron is self employed and has been for over 20 years (D.33 at 62). He currently owns a used car business called I-Drive Auto. (D.33 at 63) . He is in the process of transitioning the control of the business to his son Eli Waldron for the duration of his confinement with the Bureau of Prisons. This transition requires a multitude of actions

with the objective of the business surviving the time period when he is absent. The preparations of this could not have begun prior to notice of the April 11, 2024 hearing which was received March 20, 2024 . These actions have been underway since. It is crucial that the business survive in order for Mr. Waldron to successfully make the payments required by the restitution order the Court will make. To maximize the opportunity for survival of the business Mr. Waldron respectfully requests the Court to set the surrender date 90 days from the date of sentencing or such other extension beyond the customary 30 days the Court deems appropriate. If 90 days are allowed the date would be on or about July 8, 2024. Counsel is advised that the United States takes no position on this issue.

iii. **Mr. Waldron's Appeal Waiver**

Though also strictly speaking not a reason for departure under the USSG the Defendant as part of his plea agreement (D 22).¹ The Court has the authority to vary downward under the factors set forth in 18 U.S.C. § 3553 to account for this mitigating factor.

iv. **Mr. Waldron's Physical Condition**

Mr. Waldron notes for the Court the ongoing medical condition regarding his eyes as set forth in the Pre-Sentence Report (D 33) at paragraph 55

v. **Custodial Designation**

Mr. Waldron respectfully requests that this Court designate Jesup F.C.I. for his custody.

vi. **Instanter Restitution**

The final Pre-Sentence Report recommended Mr. Waldron pay \$100,000.00 at the time of sentencing. In response Counsel has provided the United States Attorney and the United States Probation Officer with documentation to dispute the information upon which that recommendation

¹ See 8. **WAIVERS** a. *Waiver of Appeal* , b. *Waiver of Collateral ., Attack* and c. *FOIA and Privacy Act Waiver*.

was made. Essentially due to the timing of some unrelated transaction the reporting officer concluded that funds placed into an irrevocable trust for the benefit of Mr. Waldron's sons were derived from the proceeds received as a result of the subject of these accusations. Counsel produced documentation to the Probation Officer and the United States Attorney that the proceeds deposited into the trust in question resulted from a distribution of funds from the sale of timber that Mr. Waldron's mother intended for Mr. Waldron's two sons. Through communications with the probation officer I am informed that in light of this information, she does not intend to advance the demand for the payment of \$100,000.00 as instant payment for restitution.

Respectfully submitted, this, the 5th day of April, 2024.

/s/Harry D. Dixon, Jr.
Donnie Dixon Attorney At Law, LLC
State Bar No. 223375
7 E. Congress Street, Suite 400
Savannah, Georgia 31401
Telephone: (912) 443-4070
Facsimile: (912) 644-6702
ddixon@donniedixonlaw.com

IN THE UNITED STATES DISTRICT COURT

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SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION**

UNITED STATES OF AMERICA

vs.

KYLE WALDRON

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CERTIFICATE OF SERVICE

This is to certify that I have on this day served all parties in this case in accordance with the Notice of Electronic Filing (or NEF) which was generated as a result of electronic filing with the Court's CM / ECF system.

This, the 5th day of April, 2024.

/s/Harry D. Dixon, Jr.
Donnie Dixon Attorney At Law, LLC
State Bar No. 223375
7 E. Congress Street, Suite 400
Savannah, Georgia 31401
Telephone: (912) 443-4070
Facsimile: (912) 644-6702
ddixon@donniedixonlaw.com