

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA

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V.

CRIMINAL NUMBER 21-209-1

TYRESE CARTER

DEFENDANT’S SENTENCING MEMORANDUM

Mr. Carter made a foolish decision that changed the course of his life forever. At 31 years old, he was arrested for distribution of narcotics and possession of ammunition by a felon. Mr. Carter has spent the past 16 months undergoing serious self-reflection, taking responsibility for his actions, and suffering the consequences of being separated from his family. Put frankly, this experience has been a tremendous eye opener for him.

Mr. Carter respectfully submits this memorandum in aid of sentencing. He pled guilty pursuant to FED. R. CRIM. P. 11(c)(1)(C), accepts full responsibility for his actions, and respectfully requests that this Court consider all the mitigating factors explained in this memorandum and impose the jointly recommended sentence of 60 months of incarceration, four years of supervised release, and a \$200.00 special assessment. This sentence will be sufficient but not greater than necessary to achieve the sentencing goals of 18 U.S.C. § 3553(a) and *United States v. Booker*, 543 U.S. 220 (2005).

SIGNIFICANCE OF MR. CARTER’S PERSONAL HISTORY AND YOUTH

Mr. Carter’s childhood was rife with chaos and trauma. When he was only 4 years old, his parents separated. Presentence Report ¶ 62. After the separation, his mother and paternal grandmother raised him and his siblings in a single-parent household. *Id.* Mr. Carter’s father was not involved in his upbringing from the age of 2 to 12, as his father was serving a

lengthy prison sentence for possession with intent to distribute narcotics *Id.* His father was released from prison when Mr. Carter was 12 years old and his mother sent him and his younger brother to live with their father. *Id.* However, his father disliked Mr. Carter for being a “punk,” who believed his son was “not tough enough.” *Id.* Mr. Carter felt that his father treated him differently than his younger brother and that made him feel like an outsider. As a result, Mr. Carter went to live with his paternal grandmother while his younger brother continued to live with their father. *Id.* The next year, when Mr. Carter was 13 years old, his father passed away.¹ *Id.*

The residential instability compounded by his parents’ absence throughout his youth provide a useful guide in understanding his problematic behavior as a juvenile and an adult. As a juvenile, he began to gravitate towards peers with a negative influence. At the age of 16, Mr. Carter was adjudicated delinquent for aggravated assault on two different occasions. PSR ¶¶ 37-38. At the age of 19, he was convicted of providing false identification to a law enforcement officer. *Id.* at 39. At the age of 20, he was convicted of aggravated menacing and aggravated assault. PSR ¶¶ 40-41.

¹ It is well established that children who do not have a father figure are at an increased risk of developing delinquency and substance abuse issues. *See* Bronte-Tinkew et al., The Father-Child Relationship, Parenting Styles, and Adolescent Risk Behaviors in Intact Families, *Journal of Family Issues* (2006) (“First, consistent with our initial hypothesis, a more positive father-child relationship is associated with a reduced risk of first delinquency and substance use across all delinquency and substance use behaviors. These results remain consistent even after using controls for various aspects of the mother child relationship, maternal monitoring, other maternal characteristics, family- and household-level characteristics, and child-level characteristics. We interpret this to mean that fathers matter, though there are many other important components of an adolescent’s life that matter as well.”); *see also* Hoeve et al., The Relationship Between Parenting and Delinquency: A Meta-analysis, *Journal of Abnormal Child Psychology* (2009) (“negative aspects of support, such as combinations of neglect, hostility and rejection were strongly linked to delinquency”); Simmons et al., The Differential Influence of Absent and Harsh Fathers on Juvenile Delinquency, *Journal Of Adolescence* (2018) (“Researchers have identified father absence as a contributor to juvenile delinquency.”); Harper, C. C., & McLanahan, S. S., Father absence and youth incarceration, *Journal of Research on Adolescence*, (2004) (“Results from longitudinal nationally representative data show that although youths from father-absent households no longer represent an unusual family situation, there remains a significant divide between their incarceration outcomes and those of youths who grow up in a household with both of their parents.”).

Mr. Carter's relationship with his mother greatly suffered when she sent him and his younger brother to live with their father. PSR ¶ 63. Mr. Carter believed that her mother decided to abandon them to enjoy her life more freely with less obligations to fulfill. Despite this history, their relationship took a positive turn after the birth of his son in 2018 and the birth of his daughter in 2020. *Id.* Mr. Carter could see that his mother was making great efforts to be a part of her grandchildren's lives. *Id.* Mr. Carter misses his children daily, and he tries his best to remain involved in their lives through telephone contact. *Id.* at 68.

In May of 2020, Mr. Carter was shot in the right shoulder, and he suffered a lung puncture and collapse as a result. PSR ¶ 73. *Id.* Shortly after the shooting, he was diagnosed with Post-Traumatic Stress Disorder, anxiety, and depression. *Id.* at 77. His medical records reveal that he still regularly experiences nightmares, cold sweats, and difficulty sleeping as a result of being shot in 2020. *Id.* at 78.

At 33 years old, facing a federal conviction and prison sentence, he stands at a crossroads in his life. Importantly, he stands at that crossroads accepting responsibility for his actions, and he is prepared both in attitude and ability to choose the law-abiding path. There is no question that the combination of childhood trauma, and early and consistent drug use significantly contributed to Mr. Carter's criminal behavior. Yet he does not make excuses for his actions; rather, he accepts full responsibility and acknowledges he must pay a debt to society while taking advantage of the rehabilitative programming that will be available to him through the Bureau of Prisons (BOP). He simply asks this Court to take into consideration how the adversity he has faced and his youth have affected his past decision-making in determining his sentence.

Mr. Carter intends to spend his sentence taking as many courses and engaging in as many programs as possible to help him successfully reenter society. With these goals in mind, he asks this Court to honor the plea agreement and impose a sentence of 60 months of incarceration followed by four years of supervised release.

THE RECOMMENDED SENTENCING GUIDELINE RANGE

Mr. Carter, through his counsel, agrees that the PSR correctly calculated the Guidelines range as 60 to 71 months. PSR ¶ 74. The jointly recommended sentence of 60 months of incarceration is fair and reasonable in considering the 18 U.S.C. § 3553 factors listed below.

APPLICATION OF THE STATUTORY FACTORS TO THIS CASE

The parties' plea agreement reflects their shared belief that the proposed sentence of 60 months of imprisonment and four years of supervised release will achieve the purposes for which the state prosecution was federally adopted. The agreement allows the Court to consider any permissible factor to impose a sentence in light of the criteria set forth in 18 U.S.C. § 3553(a). In this case, the parties respectfully ask the Court to honor their plea agreement as an objectively reasonable and appropriate way of resolving the case.

The Court must consider all of the § 3553(a) factors and impose a sentence that is "sufficient, but not greater than necessary" to satisfy the purposes of sentencing. 18 U.S.C. § 3553(a). In this case, a sentence of 60 months of incarceration followed by four years of supervised release meets this criteria. The factors the Court must consider include: (1) the nature and circumstances of the offense and the history and characteristics of the defendant; (2) the need for the sentence imposed to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense; (3) the need to afford adequate deterrence to criminal

conduct and to protect the public from further crimes of the defendant; (4) the need to provide the defendant with educational or vocational training, medical care, or other correctional treatment in the most effective manner; (5) the guidelines and policy statements issued by the Sentencing Commission; (6) the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct; and (7) the need to provide restitution to any victims of the offense. *Id.*

A. The Nature and Circumstances of the Offense and History and Characteristics of the Defendant

As detailed above, Mr. Carter experienced neglect and adversity throughout his childhood that have undoubtedly affected his development and decisions, including the decision to possess a firearm. Mr. Carter's experience is one this Court has heard many times, but that does not diminish the fact that it should be given significant weight in determining his sentence. To be clear, Mr. Carter does not make excuses for his conduct based on his age or childhood trauma; rather, he asks that his conduct be examined in the context of these influential factors when considering the nature and circumstances of the offense to which he pled guilty. The sentence that most appropriately considers Mr. Carter's history and characteristics, as well as the nature and circumstances of the offense is 60 months of incarceration and four years of supervised release; thus, the Court should honor the plea agreement.

B. The Need for the Sentence Imposed to Promote Certain Statutory Objectives

1. *To reflect the seriousness of the offense, promote respect for the law, and provide just punishment for the offense.*

Mr. Carter sincerely appreciates the seriousness of his conduct and recognizes the need for the significant incarceration sentence to which he has agreed. He also takes to heart the unfortunate

reality that distributing narcotics and carrying a firearm increases one's own risk of being a victim or perpetrator of gun violence. The jointly recommended sentence is minimally sufficient to achieve these statutory goals; thus, Mr. Carter respectfully requests that the Court honor the plea agreement.

2. *To afford adequate deterrence to criminal conduct and protect the public from further crimes of the defendant.*

The jointly recommended sentence will deter Mr. Carter from committing crimes in the future. If the Court imposes the recommended sentence, he will be subject to the strict restrictions of federal supervised release and significant penalties associated with violating supervision. He will also have available to him the resources and guidance of the United States Probation Office, which will implement a real reentry plan individualized to Mr. Carter's needs. The combination of a five-year imprisonment and the potential penalties and significant support associated with four more years of supervised release will serve the goals of specific and general deterrence.

3. *To provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner.*

Despite knowing he will spend the next few years of his life in prison, Mr. Carter has an overall positive outlook about his future. He is looking forward to participating in any BOP programs available to him including substance abuse treatment and grief counseling, and he intends to earn any training and/or certifications available to him while serving his sentence. The sentence outlined in the plea agreement appropriately addresses Mr. Carter's need for and goals related to educational and vocational training, and he respectfully urges the Court to impose it accordingly.

C. The Guidelines and Policy Statements Issued by the Sentencing Commission

The proposed sentence is not inconsistent with the Guidelines and policy statements issued by the Sentencing Commission as the proposed sentence lies at the bottom of his Guidelines range.

D. The Need to Avoid Unwarranted Sentence Disparities

To defense counsel's knowledge, the sentence outlined in the plea agreement would not result in an unwarranted sentence disparity among similarly-situated defendants.

E. The Need to Provide Restitution to Victims of the Offense

There are no victims of the offense; therefore, restitution is not an issue in this case.

CONCLUSION

For the reasons articulated herein, the sentence specified in the plea agreement into which Mr. Carter and the government entered appropriately balances the § 3553(a) factors while additionally accounting for the mitigating factors outlined above. Mr. Carter stands before this Court having fully accepted responsibility for his actions. He knows and accepts his inevitable incarceration sentence, the collateral consequences that flow from it, and designation at a facility likely far away from his remaining family. Considering all arguments articulated herein, as well as any brought to the Court's attention at the time of sentencing, Mr. Carter respectfully requests the Court impose the sentence of 60 months of incarceration, four years of supervised release, and a \$200.00 special assessment.

Respectfully submitted,

/s/ Andrew C. Moon
ANDREW C. MOON
Assistant Federal Defender

CERTIFICATE OF SERVICE

I, Andrew C. Moon, Assistant Federal Defender, Federal Community Defender Office for the Eastern District of Pennsylvania, hereby certify that I filed the attached Defendant's Sentencing Memorandum via the Court's Electronic Filing (ECF) system, which sent notification to Robert E. Eckert, Assistant United States Attorney, Suite 1250, 615 Chestnut Street, Philadelphia, Pennsylvania 19106, via his email address Robert.Eckert@usdoj.gov.

/s/ Andrew C. Moon
ANDREW C. MOON
Assistant Federal Defender

DATE: February 2, 2022