

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

21 CR 165 (GTS)

- against -

SEAN M. ANDRE,

Defendant.

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SENTENCING MEMORANDUM ON BEHALF OF SEAN M. ANDRE

Andrew J. Frisch
The Law Offices of Andrew J. Frisch, PLLC
40 Fulton Street, 17th Floor
New York, New York 10038
(212) 285-8000
afrisch@andrewfrisch.com

Attorney for Sean M. Andre

SENTENCING MEMORANDUM ON BEHALF OF SEAN ANDRE

Introduction

Sean Andre, who will turn thirty-two years-old just before his scheduled sentencing later this month, has endeavored to be for his community, his friends, and more recently his three children (ages eight, six and two) what he was raised without: a worthy role model. Mr. Andre attended and graduated college at night while working by day, has worked ever since, and demonstrated a determination to succeed and encourage success in others long before his arrest in this case.

Mr. Andre is no less guilty of fraud because he used the proceeds of fraudulent loans to further a business, pay employees, and reimburse himself for education-related expenses. But Mr. Andre is deserving of a second chance and a non-custodial sentence in part because of the circumstances of this case and the qualities that distinguish him: Mr. Andre has an indisputable history as especially determined to understand and improve himself and inspire others. Mr. Andre has come to terms with misplaced ambition; he has rededicated himself to serving as a proper role model by proper example, a trait repeatedly attested to in the letters accompanying this memorandum by people who know Mr. Andre in different contexts. To assist the Court, this memorandum highlights portions of those letters, which are assembled alphabetically by last name and filed herewith.

Sometimes custody advances the community's interests by punishing and deterring. The letters submitted for Mr. Andre and the atypical circumstances of this case show that this case is different: the community is best served if Mr. Andre remains a part of it so he can continue to endeavor to be a worthy role model and inspire others to succeed.

A. *Mr. Andre has always worked and worked hard.*

After graduating from high school, Mr. Andre attended and graduated from Manhattan Community College with an associate's degree in applied science. He thereafter worked for three years as a Special Officer for New York City's Department of Homeless Services, followed by two years as a Special Inspector for New York City's Metropolitan Transit Authority. He has worked at Starbucks in Manhattan, first as a barista and then as a manager, and now works for a company that conducts COVID testing. Meanwhile, since 2004, Mr. Andre has pursued a career as a musician, performing at events and helping with recording sessions. He has performed at hundreds of events over the years and appeared in and helped produce multiple music videos.

Through a mutual friend, Mr. Andre met Jean R. Lavanture, who offered to use purported connections in the entertainment and business communities to advance Mr. Andre's career as a musician. Mr. Lavanture lied to Mr. Andre about whom he truly was, lied to Mr. Andre about things as ostensibly trivial as his true age, and never disclosed that he was a convicted felon. Mr. Andre is especially insightful about his responsibility for his conduct, both understanding what he did, why he did it, and owning it.

B. *People who know Mr. Andre from different contexts attest to his resolve to be the role model for others that he never had*

Emilienne Andre, Mr. Andre's mother, was sixteen years-old when Mr. Andre was born. She took Sean to live his father, but "[t]hen out of nowhere, everything changed:" Mr. Andre's father used drugs, and he became physically abusive to Emilienne, scarring her face and once forcing her head into an oven as the young Mr. Andre watched, screaming "stop it, stop

it, daddy, please, please, please:"

As a little boy, Sean loved his father, but a lot of things left him confused. He looked so sad at times, as if he was wondering what was going to happen next and how he could help de-escalate whatever situation that was to come, so he would find ways to be funny and make us laugh. Basically, he became the funny one in the family. But as his mom, I knew it was because he was afraid inside, and he didn't want any problems to start. Each time he told a joke or did something funny to make us laugh, he would go away from us with a sigh of relief under his breath. It was so sad. I didn't want to see my son that way and I certainly didn't want his brother to grow up in that environment either, so I left their father for good.

Many years later, when Mr. Andre was 22 years-old, he told his mother, "I remember my father put your head in the oven." Letter of Emilienne Andre.

As Mr. Andre's mother explains, "it was Sean who was determined to make something positive of himself" and "not to be like his father, so he fought himself to be different. He spent his whole life trying to please people so that he could make them happy. As his mom, sometimes I tell him you can't live for people, you have to understand when someone wrongs you. It's good to be forgiving, but not let people take advantage of you:"

[T]here was something different about him. He would feel bad, right away, and go the extra mile to apologize by writing me a letter to tell me how sorry he was. and he would try his very best not to make me upset. I still have some of those letters to this day. Sean's goal, was always to do good in life and to make us proud. He never hangs up the phone without saying, "I love you momma," and that's to this day.

See Letter of Sandra Nelson ("He did the work of forgiving his father for past childhood traumas and started re-building with him again, because he wanted to meet his father's other children, his siblings, and he expressed his need for his family to be whole, for his children to know their lineage").

Michael Andre, Mr. Andre's younger brother, agrees with their mother's

assessment of Mr. Andre: “He is someone that very much wants to succeed and contribute to the world . . . As an older brother, he’s helped me to challenge negative thinking, he’s pushed me to follow my dreams, and advised me on reaching bigger goals through smaller steps . . . He constantly wants to learn, grow and evolve.”

One of Mr. Andre’s closest friends, Vanessa Allen, a nurse who has known Mr. Andre for fifteen years, describes him as “a big believer in personal growth, and taking accountability when he is wrong:”

Sean worked his way up from being a Starbucks employee to getting a job at the MTA. Also, starting his own clothing line and music entertainment business . . . Sean was forced to learn how to fend for himself at a young age because he was a product of teenage parenting. Some people aren’t able to overcome such obstacles without becoming a statistic He was doing this alone.

. . . .

Growing up is hard and so is figuring out life. I truly believe [Mr. Andre] is an amazing human being who is destined for great things.

See Letter of Sha-meek Basnight (“I’ve seen him personally overcome so many battles in my lifetime . . . Mr. Andre came and offered me a job when I truly had no idea as to how I was going to pay my bills. Not only did he offer me a job, but he helped me find my passion as an event coordinator”); Letter of Bethel Haiul Dejene (“I have always admired Sean’s ambition and drive to better himself, whether it is regarding his family, friends, or personal development. In the time I have known Sean, I have seen him experience ups and downs, but he has always chosen to move in a positive direction with his life”).

Mr. Andre’s friend, Glorinal Amaro, recognizes a “recurring theme of Mr. Andre[:] Encouraging those around him to reach their goals:”

In the past few months I have witnessed Mr. Andre work diligently on improving himself physically, mentally, emotionally, and spiritually. His diligence and thirst for knowledge is infectious. So much so that my own life has improved as a result of our friendship. I find myself in better spirits after conversing with him, for he has a very optimistic view on life.

....

[H]e believes in others because he knows what it feels like when others don't believe in you, and despite this, he is empathetic to those whose views rival his.

See Letter of Krystal Crump (“[W]hat really surprised me was Mr. Andre’s ability to continue his passion for music, plan out events and show support to his friends and family all while dealing with his legal issues. He never once complained about his situation and would always have this positive attitude and drive to better himself”); Letter of Tatiana Padro (“Sean is always educating himself by reading self help books, doing research to be the best version of himself”).

Former supervisors at work and co-workers speak to his dedication and diligence. Saeed Bernard, now a corrections officer, worked with Mr. Andre when they were peace officers at the New York City Department of Homeless Services: “Throughout our time in the academy, Mr. Andre proved to be one of the most astute and cooperative members of our recruit class and for those reasons I gravitated toward him . . . His character and integrity as a friend, colleague and confidant in my estimation is second to few . . . [I] learned to completely trust Mr. Andre with my life as we patrolled the confines of a homeless shelter for men with mental disabilities as well as drug addiction.” *See* Letter of Preston Irby Jr. (“During his tenure with the Department of Homeless Services police, Sean Andre was an exceptional Officer with great moral fiber, integrity, character”).

Andy Rocher, a senior manager at the Metropolitan Transit Authority, helped Mr.

Andre get his position there. Mr. Rocher was impressed with Mr. Andre's approach while working for the Department of Homeless Services. Mr. Andre had been assaulted in the line of work by homeless men, but believed that they should be housed, treated, and counseled, not imprisoned; he exhibited "grace and compassion" to those who had assaulted him as a peace officer. Mr. Andre's co-workers at Starbucks recount his selflessness in looking out for them [Letter of Christian Elibert ("While others turned away, Sean extended a helping hand that till this day I'm grateful for")] and his devotion to others. Letter of Tatiana Padro ("Sean worked his way up in Starbucks by being promoted to a shift supervisor. Sean being a great leader, trained many baristas, who then later became great supervisors").

Terry Blessings, who helped train Mr. Andre at the Metropolitan Transit Authority, reports that Mr. Andre "was greatly respected by his peers. Sean was a sharp and fast learner, and took pride in his work. He was always prepared and ready for duty. No matter what time of the day or how long we had to work for, he always kept a positive attitude." George F. Hawkins worked together with Mr. Andre as special inspectors for the Transit Authority's Eagle Team Enforcement monitoring busses for fare evasion:

The Job is about Team Work and he fit right in[;] he has a gift talking with the customers who became very hostile at times and he was able to calm the situation without incident. I worked with a lot of coworkers and no one can compare to [my] relationship with Sean Andre[, who] is Special so easy to talk to and won't hesitate to go beyond to help.

See Letter of Emilienne Andre ("He is always looking for ways to improve himself and do good"); Letter of Jelani Ramsay ("Sean would typically work his day job and in his spare time work on his business selling clothes, accessories and recording music"); Letter of Tatiana Padro ("Sean is always educating himself by reading self help books, doing research to be the best

version of himself”).

Brian Duane Sauls, Mr. Andre’s supervisor at the Transit Authority, an eighteen year military veteran and currently Technical Sergeant in the United States Air Force, describes Mr. Andre as “open to learning,” “didn’t mind hard work, and “dedicated to growth and moving forward When faced with a mistake he always took accountab[ility] for his part. He’d seek clarification on any policies or procedures he was unsure of and welcomed constructive criticism:”

Although I’m shocked he’s in this current situation, I’m not surprised at all that he pled guilty. This action is consistent with what I’ve seen from him while we worked together [H]e understands why it was wrong, and who was truly impacted.

As Rodney B. Garland puts it, “I can confirm that he is ambitious, responsible, dependable, considerate, efficient and by far the most dedicated person I know . . . [H]e is not his mistake.”

C. Mr. Andre’s genuine resolve to be a role model and cautionary tale for others

Mr. Andre’s letter to the Court confirms the views of his family, friends, former supervisors, and co-workers that he is and has always been “determined to make something positive of himself” [Letter of Emilienne Andre] and “very much wants to succeed and contribute to the world.” Letter of Michael Andre. Mr. Andre used his ill-gotten gain to pay education-related expenses and pay employees, as demonstrated by payroll records which will be emailed to the Court. The government faults Mr. Andre for continuing to so use the proceeds even after becoming aware of Mr. Lavanture’s arrest, but even that critique is a two-sided coin as Mr. Andre was using proceeds to employ others. His conduct was no less criminal, but is of a different dynamic than conduct motivated purely by self-interest. Sean’s letter is plainly from the heart and speaks genuinely to his failing:

I write to you from a place of humility, acceptance, new found knowledge and a greater understanding of self. Though this is the most frightening and difficult chapter of my entire life, I've come to realize it may be the most essential. I've been forced to grow and learn about myself in a way that was unforeseeable. I've been given an opportunity to reflect on, despite where I started, the role I've played in the outcome of my own life. I've come to realize that the decisions we make not only affect us, but those that depend on us - my loved ones, my friends and family. I've been given an opportunity to learn what I was capable of. I was able to finally take a step away from my comfort zone and build confidence in myself, reshape and strengthen my poor beliefs and scrutinize my insecurities. I've been forced to be honest with myself. I've learned why money is not the key to success, but rather your plan. I've learned that there are no shortcuts to success and if you take one, the universe has its way to force you to learn the correct path one way or another.

....

I have come so far and yet have so much further to go. I have always sought self-mastery but never understood where to begin. I've been misguided in many ways. I'd become so self-absorbed and infatuated by the desire of fulfilling what I thought was my destiny. I found myself easily influenced due to my misguided ambition. In the blink of an eye, I lost everything trying to be everything not only for myself but for the children that I brought into the world.

Mr. Andre recounts advice given him by the FBI case agent who shared words of wisdom from the agent's father: to keep working and trying, to move forward. The advice brought home to Mr. Andre "how different it was for [him] not having a dad I could expect to advise me." It is telling that Mr. Andre recognizes the benefit of the counseling he began after his arrest at the recommendation of his pretrial services officer:

[I] was able to learn the importance of patience. It may come natural to many but to me it was this feeling of "I can't seem to get life right." I was doing everything in my power to get to my ultimate goal only to find myself still in the rat race. I felt as though I was following all the rules but getting nowhere. My intentions may have been to benefit my loved ones, but only jeopardized their security. With counseling, I was able to reflect on the dangers of misguided ambitions. I was able to learn that no matter your goals, there are no shortcuts to achieving true success. I was able to understand the importance of being self-aware in the actions and decisions you make. I was able to learn that I had everything I needed but lacked the confidence in my abilities. I was able to learn empathy and apply it to those around me. It leaves room for one to seek guidance from any

receptive source.

Mr. Andre knows that his misguided ambition has already cost him, and dearly: “Due to my actions and poor judgment, I lost my career with the MTA, clean record, and I’ve given up my apartment in New Jersey and moved into my studio apartment in Brooklyn.” Mr. Andre had purchased a 2019 Mercedes to generate income for his family by renting it out and used his own money to do so, but had co-mingled ill-gotten gain in the account from which he bought it and agreed to forfeit it. The far more substantial cost to Mr. Andre is his relationships with his three children:

I’ve disappointed the mother of my children and she’s left, taking primary custody of our children. Heartbroken, I’ve been demoted from a full-time dad to a weekend dad. The good news is that I have had time to reflect of my relationship with my children and their mother and learned to be a better parent, friend, and partner.

.....

I am blessed with three beautiful children. It is my duty to provide, protect and nurture, to instill values such as resilience, curiosity, empathy, thirst for knowledge/love of learning, and nobility. To raise virtuous children and be the role model I did not have and needed. So they are not misled by greed as I was. I have learned that my community requires more attention and resources. We are easily led astray and don’t have enough role models within reach. I learned that it is imperative, and often overlooked, to have a stable role model in one’s life. I always sought to get away from the poverty-stricken circumstances that I was a product of, but I was naive. I would say, “I just want to win, I just want to be great.”

As Glorinal Amaro puts it: “It is apparent that he desire to constantly better himself is highly motivated by his children. He wants them to know diligence, kindness, empathy, and to have an unwavering faith in themselves as he has in them;” Letter of Emilienne Andre (“He is very humble. His children need him. And I know it will kill him if he doesn’t have a chance to raise them and be there for them. I know what he went through emotionally, growing up without a dad. Being there for his kids is a must for him . . . [H]e is an amazing father”); Letter of Michael

Andre (“He talks endlessly about wanting to give them a life that he didn’t have, he knows what’s it’s like not to have a father and he cares deeply about being in their lives”); Letter of Christine Perrella (“He constantly would brag about his kids and how much he loved them”).

D. Mr. Andre realizes that “wrong is wrong”

What makes Mr. Andre’s crime somewhat atypical is that he made misrepresentations to obtain the loans for his business, but substantially followed the rules for their use. As Mr. Andre acknowledges, “Wrong is wrong, no matter what good intentions you may have. I was the problem:”

I had convinced myself that I could apply for the loans and use them for what they were designed for, which is to pay employees during the pandemic. My ego led me to believe that by using the proceeds for my music business, all would be forgiven. I was disconnected and assumed because I followed the rules after breaking them, spending more than the required 60% on employees, that there should be no criminal charges against me. I had to come to terms with the underlying issues of submitting misrepresented applications.

Alexandra Ribou has known Sean for 28 years and watched him grow from childhood: “We’ve had numerous conversations regarding this matter and I believe that a strong desire to improve his businesses and thereby improve the lives of his loved ones led to his lack of judgment.” Mr. Andre’s mother agrees: “Sean has explained to me the huge mistake he has made, and he expressed how sorry he is for doing so and he wishes he had spoken to someone who could have advised him better. Sometimes it doesn't matter how old we are, we still need guidance.” As Von Headley explains, “Sean made sure that he hired many people whom had been negatively impacted by Covid-19 during the pandemic in his company and gave them opportunities in which they thrived. I can think of dozens of people that he personally helped. Sean has been a positive influence on a great many people causing them to strive to better

themselves.”

Christine Perrella sums it up well:

I can honestly say Sean is one of the most sincere human beings I’ve ever come across in my life. When I first started to become friends with him, it broke my heart seeing how guarded he was from people abusing his kindness Sean never lied to me, never told me we’d hangout and bail, never put me down and ONLY would bring me up and never took advantage of my own niceness. Sean helped me remember my own worth and how I deserved to be treated as a person. He’s always been such a great friend. Such a genuine gentleman. A rare human.

E. Mr. Andre’s characteristics, his history, and the circumstances of his case establish that the community is best served if Mr. Andre remains a part of it

Mr. Andre’s history of working and working hard and his eagerness for self-improvement may seem incongruous with his crime. Two features of his crime help explain his conduct and also show why any custody would be greater than necessary to punish, deter, and otherwise achieve the statutorily-described goals of sentencing.

While working full time (as he always has), Mr. Andre has also pursued his career as a musician and producer. For Mr. Andre, music is more than an avocation; music is a way of inspiring and being a role model for others and realizing his entrepreneurial dreams. About seven years ago, when Mr. Andre was in his mid-twenties, he met Mr. Lavanture through a mutual friend who believed, as Mr. Andre came to believe, that Mr. Lavanture was a producer with a history of success in business generally and entertainment specifically. At Mr. Andre’s first meeting with Mr. Lavanture at ostensibly his own prestigious office in Manhattan, Mr. Lavanture suggested that create a music video for Mr. Andre, which they did that very day.

As Mr. Andre explains in his letter to the Court, he has worked over the past year to unpack and understand his relationship with Mr. Lavanture. Mr. Andre now knows that Mr.

Lavanture lied to him about whom he truly was and what he could truly accomplish for him. Mr. Lavanture never told Mr. Andre about his criminal record or even his true age. Mr. Lavanture's propensity to con is known to this Court: upon Mr. Lavanture's arrest, he submitted a *pro se* "motion to dismiss indictment" to this Court [Docket No. 21, which Mr. Lavanture signed before a notary, in which Mr. Lavanture represented to this Court in pertinent part as follows:

By way of background, Defendant was approached by an individual, namely, Sean Andre, who represented himself as an NYPD Law Enforcement as well as a PPP Broker/Specialist - guaranteeing approval of up to \$2,000,000 - for a 20% commission per approval.

....

[D]efendant ultimately hired Officer Andre, who requested the following documentation in order to obtain PPP approval: (1) Login access to Defendant's online banking (2) Email logins

....

[D]espite numerous requests made to Officer Andre, Defendant has yet to see what documents were submitted to obtain the PPP grants.

....

[D]efendant later discovered that the fees paid to Officer Andre were not allowed and far exceeds the half percent set by the SBA - Officer Andre's fees - if eligible - were supposed to be paid from the proceeds of Bank of America - from the PPP distribution of Government funding."

....

[D]efendant believes Officer Andre knew he wouldn't even have received the half percent fees from Bank of America, thus opted on making higher profits not allowed by the SBA.

Docket No. 21 at 4-6. These are lies, part of Mr. Lavanture's reflexive instinct to con. The music video that Mr. Lavanture made with Mr. Andre *seven years ago* upon their first meeting can be found today on YouTube – *and Mr. Lavanture appears in it.*

Mr. Andre was eager for a role model. Mr. Lavanture encouraged Mr. Andre and his dreams and told him, even as Mr. Lavanture encouraged the fraudulent applications, “to keep going ‘no matter what.’ Those were [Mr. Lavanture’s] usual words of encouragement:”

For me, the closest example to what I aspired to achieve was Mr. Lavanture, for he represented himself as a multi-successful millionaire. He had a DVD about his business, and it was similar to everything I wanted to accomplish. He had an office in Manhattan, drove a nice car. I was about 24 years old at the time and impressionable. I was working at Starbucks living check to check trying to get my music off the ground. Those around him would tell stories about how he knew many celebrities and other established people. He provided me with marketing services for my social media at the time. Over the passing years I witnessed him acquire land in upstate New York and continue to expand his company... I was sold a dream that I felt I needed to believe to keep me going.

....

[H]e would give me the same encouragement with the loan applications as usual, to keep going “no matter what.” Those were his usual words of encouragement. And so I did. But, once one application was completed it was as though his eyes were open. He had another business then another. Before I knew it, I was so absorbed by working with Mr. Lavanture for his applications, I lost touch with reality. I worked my job and worked on these applications. I spent less time with my children.

As Mr. Andre puts it, “[I] was sold a dream that I felt I needed to believe to keep me going . . .

Mr. Lavanture seemed to believe in me more than I believed in myself.”

Mr. Andre’s friends and family understand what happened. Terry Blessings, a member of the New York Army National Guard and Mr. Andre’s former co-worker, writes: “We all make mistakes and learn from them. No one can live a perfect life, all we can do is learn and become a better person than we were yesterday. I am a firm believer that everyone deserves a second chance.” Sandra Nelson, a general manager at Starbucks, has known Mr. Andre since he was a child and years ago recommended that Starbucks hire him: “We have all fallen short of our greatness at some point, the majority of us are blessed that our falls are not seen by the world

and we can recover privately.”

Even in committing a crime, Mr. Andre used the proceeds of the fraudulent loans to pay employees in his music business and to reimburse himself for education-related expenses. None of the uses was proper, and none absolve him of his crime or his responsibility for it. But they give context to Mr. Andre and his conduct and should inform his sentencing. *See* Letter of Rodney B. Garland (“I believe everyone deserves a second change when they take accountability and show remorse”); Letter of Vanessa Allen (“Please allow him the opportunity to not become the statistic he has always fought so hard not to become”); Letter of Lawrence Higgins, Mr. Andre’s union representative at the Transit Authority (“I also believe if given the opportunity he will prove to be a responsible citizen and a contributor to a better society”). Tonia Roganti, a friend of Mr. Andre’s, puts it this way: “As a person grounded in the Christian faith, I believe in second chances because we all fall sometimes. And sometimes falling is exactly what we need to see where we need to change to do better.”

The community is best served if Mr. Andre remains an active part of it. In Mr. Andre’s own search for a proper role model, he continues to learn how properly to be one. He should be afforded a second chance to do what he has always worked hard to do: make a difference for the better and inspire his children and others.

Dated: February 8, 2022

/s/ Andrew J. Frisch
Andrew J. Frisch
The Law Offices of Andrew J. Frisch, PLLC
40 Fulton Street, 17th Floor
New York, New York 10038
(212) 285-8000
afrisch@andrewfrisch.com