

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

UNITED STATES OF AMERICA,	:	CASE NO: 1:21 CR 00527
	:	
Plaintiff,	:	
	:	
vs.	:	JUDGE DONALD C. NUGENT
	:	
	:	
ROBERT BEARDEN,	:	
	:	
Defendant.	:	<u>DEFENDANT’S SENTENCING</u>
	:	<u>MEMORANDUM</u>
	:	

On November 4, 2021, Defendant ROBERT BEARDEN entered a guilty plea to Count 1, Wire Fraud and sentencing is scheduled for February 24, 2022.

I. APPLICATION OF TITLE 18 U.S.C. § 3553(a)

Title 18 U.S.C. §3553(a) provides in part that district courts “shall impose a sentence sufficient, but not greater than necessary, to comply with the purposes set forth in paragraph (2) of this subsection.” The purposes are to: A) reflect the seriousness of the offense, to promote respect for the law and to provide a just punishment for the offense; B) afford adequate deterrence to criminal conduct; C) protect the public from further crimes of the defendant; and D) provide the defendant with needed educational or vocational training, medical care or other correctional treatment in the most effective manner.

The Court, in its sound discretion, is to impose a sentence on an individual basis considering the multiple factors in §3353, including an individual’s history and characteristics, the nature of and circumstances surrounding the offense conduct, the advisory Guidelines, the

need to avoid unwarranted sentencing disparities, and the need to provide restitution to any victims of the offense.

A. History and Characteristics of Robert Bearden

An accurate summary of Robert Bearden's history is set forth in the Presentence Report. However, certain aspects of his character and history are worthy of further mention. Robert was raised by his mother and grandmother. Robert has three minor children ages 7, 12 and 13. Upon his release from custody Robert will reside with his mother, Brenda Henderson, in Chesterland. When Robert was a senior in high school he fathered a child. He decided to drop out of school to work and support his new child. He has worked at various jobs since that time, doing his best to support his growing family. Even though he has worked most of his life, Robert has continued to struggle with financially supporting his dependents.

B. The Nature and Circumstances of the Offense

Robert was arrested on 5/20/2021 and has remained incarcerated since that time. He has remained incarcerated without bond in this matter. At the time of his sentencing hearing he will have served over nine months. As noted in the Presentence Report, the imprisonment range is eight to fourteen months. Robert respectfully requests that this Court order credit for time served and his release. In the alternative he requests that this Court release him to serve the remainder of any term on probation. He fully understands that restitution will be ordered in this case. As noted in the Presentence Report, Robert takes full responsibility for his criminal acts in this matter. Robert's actions, although not excusable, were an attempt to provide himself and his family with the things that seemed to be unattainable. For instance, planning a vacation with his family was something that he had thought about for years but was never in a financial position to

do. He knows fully that his actions in this matter were completely wrong and he has fully accepted responsibility for the crimes.

II. **The Advisory Sentencing Guidelines**

Robert objects in part to the loss calculation contained in ¶18 of the Presentence Report. The US Attorney's office has noted that updated figures from the SBA for restitution are still pending. ¶18 states "an EIDL was deposited into Victim 3's U.S. Bank account for \$34,300." It further states that "Victim 3 paid \$170 a month to the SBA for the EIDL." The total amount paid by Victim 3 to the SBA is pending. The parties are thus awaiting the final restitution amount, which ostensibly would be the \$34,800 figure reduced by the total payments made by Victim 3 to the SBA.

III. **Conclusion**

As noted above and in the Presentence Report, Robert takes full responsibility for his actions in this matter. For the reasons set forth above, Robert respectfully requests that this Court order a sentence within the lower end of the applicable guideline range.

Respectfully submitted,

/ s / William Mooney

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CERTIFICATE OF SERVICE

A copy of the foregoing **DEFENDANT'S SENTENCING MEMORANDUM** was filed electronically on February 20th, 2022. Notice of this filing will be sent to counsel indicated on the electronic receipt by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

Respectfully Submitted,

/s/ William Mooney

WILLIAM MOONEY (0087358)
Attorney for Defendant