

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)
)
 v.) 21-cr-10095-RGS
)
 SHANE SPIERDOWIS)
)

DEFENDANT’S SENTENCING MEMORANDUM

Shane Spierdowis appears for sentencing having pled guilty to a single count of wire fraud in violation of 18 U.S.C. § 1343. Shortly after completing an 18 month sentence for violations of probation, Mr. Spierdowis submitted false documents in an attempt to secure federally funded small business loans under the CARES Act. His attempts proved futile and he was arrested before any such funds were disbursed. Mr. Spierdowis has accepted responsibility for his conduct and executed a plea agreement. The application of the Sentencing Guidelines is not in dispute and calls for an advisory range of between 24-30 months. As latent mental illness may have been a contributing factor to his conduct, Mr. Spierdowis requests that the Court impose a low-end sentence of 24 months, to be followed by 2 years of supervised release, with a special condition requiring a mental health evaluation and treatment as deemed necessary.

Application of Sentencing Guidelines

The court must “begin sentencing proceedings by correctly calculating the applicable Guideline range.” *Gall v. United States*, 552 U.S. 38, 49 (2007). Here, the applicable GSR is uncontested. Mr. Spierdowis agrees that his total offense level is 16. With a criminal history category of II, this yields an advisory GSR of 24-30 months.

Spierdowis’s Background and Characteristics

Shane Spierdowis background is somewhat enigmatic. He is 32 years old and has roots in Massachusetts, North Carolina, and Florida. Although he left school without a high school diploma, he is bright and entrepreneurial. He obtained a GED without any preparation and has substantial work experience in the securities industry. Reportedly, he has scored highly when administered intelligence testing. His criminal history consists solely of a 2018 securities fraud conviction in the Southern District of Florida. Upon resolving that case, he was placed on probation. As the government rightly points out, his performance on supervision was abysmal. In short order, his probation was revoked and he received an 18 month prison sentence.

Upon his release from that sentence, Mr. Spierdowis moved to Massachusetts to live with his father. His father, a retired Marine and reservist with the U.S. Air Force, counseled him to obtain employment and get started rebuilding his life. Instead, Mr. Spierdowis holed up in his bedroom and devoted his energies to attempting to defraud the PPP program. His actions are perplexing. Why would a first time offender who received the benefit of probation so quickly squander that opportunity? And why would he so quickly recidivate thereafter?

The government characterizes this as “profound disrespect for the law,” deserving of substantial punishment. *Govt. Sentencing Memo* at 3. But there are indications that there may be more to the story. Mr. Spierdowis’s father has long felt that his son suffers from some form of autism, noting his “above average IQ, issues with authority, socially keeping to himself, and adhering to a rigid routine.” PSR ¶ 64. According to the elder Mr. Spierdowis, as a child his son was referred to a number of psychiatric clinicians, where it was noted that he had difficulty in social interaction. PSR ¶ 68.

In 2007, at the age of 16, Mr. Spierdowis was hospitalized in North Carolina after he was noted to have an altered mental state and aphasia (an inability to speak). PSR ¶ 69. While it was thought that the impairment may have arisen after smoking marijuana laced with another intoxicant, it was not a minor episode. The hospital where Mr. Spierdowis was treated petitioned for his involuntary commitment to an adjacent state psychiatric hospital, where he remained for several weeks. Undersigned counsel attempted to obtain records from this psychiatric hospitalization but was unable to do so, as the state psychiatric facility is now closed.

Mr. Spierdowis did not consider himself to be in need of mental health care as an adult. When placed on probation, his conditions of supervision did not involve any sort of mental health evaluation or treatment. Nor was any such treatment available to him at the detention center in Miami where he served his revocation sentence. Recently, upon reflection on the course of actions which have again brought him before the court, Mr. Spierdowis has agreed that it is in his best interest to pursue mental health treatment. He voluntarily sought out psychiatric services at the Plymouth Jail and has been prescribed medication, which he has found to be beneficial in regulating his mental state.

Argument

The government seeks a sentence of 27 months, arguing that Mr. Spierdowis is not deserving of a “break” given his actions. The defense agrees that there is no basis for a “break” and is not seeking a variance from the guidelines sentencing range. However, owing to the role that latent, untreated mental illness may have played in Mr. Spierdowis’s actions, the defense submits that a sentence at the low end of the advisory range is “sufficient, but not greater than necessary” to accomplish the goals of sentencing under 18 U.S.C. § 3553(a). The sentencing

factors under 18 U.S.C. § 3553(a)(2) include the need “to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner.” The U.S. Probation Office regularly refers individuals under supervision to mental health clinicians for evaluation and treatment. Accordingly, Shane Spierdowis requests that the Court sentence him to 24 imprisonment, to be followed by 2 years supervised release, and to impose a special condition of supervision providing for a mental health evaluation and treatment as deemed necessary.

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by his attorney
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Certificate of Service

I, Scott Lauer, hereby certify that this document was this day filed through the ECF system and will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (“NEF”) via electronic mail.

Date: February 23, 2022

/s/ Scott Lauer
Scott Lauer