

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

UNITED STATES OF AMERICA : Case No. 3:08CR58(JBA)
: :
: :
v. : :
: : May 16, 2008
JILL D'ANTONA :

UNITED STATES' SENTENCING MEMORANDUM

I. Introduction

The Government respectfully submits this memorandum in aid of sentencing, which has been scheduled for Tuesday, May 27, 2007 at 3:30 p.m. The memorandum outlines the procedure to be followed in sentencings in the wake of United States v. Booker, 543 U.S. 220 (2005), explains why the Presentence Report ("PSR") properly calculates the defendant's sentencing range under the U.S. Sentencing Guidelines, and leaves to the discretion of the Court the appropriate sentence to be imposed in the case in light of the factors outlined in 18 U.S.C. § 3553(a).

This Court must fashion a sentence for Jill D'Antona that promotes respect for the law. The sentence must reflect the seriousness of the offense committed by D'Antona as well as provide a message, both specifically to her and generally to the public, particularly public officials, here a law enforcement officer, that they must discharge their duties fairly and cannot use their official positions for personal financial gain.

II. The Sentencing Guidelines

A. The Law

The Supreme Court clarified the continuing role of the Sentencing Guidelines and the scope of the sentencing court's discretion in United States v. Booker, 543 U.S. 220 (2005). Booker makes clear that this Court must consider both the sentencing factors set forth in 18 U.S.C. Section 3553(a), and the Sentencing Guidelines in fashioning a reasonable sentence. Id. at 249. While the Sentencing Guidelines are no longer mandatory following Booker, they must still be considered in determining the appropriate sentence. Because the Guidelines reflect the Sentencing Commission's considered judgment about all of the factors set forth in § 3553(a), the Supreme Court and the Second Circuit have made it clear that the Guidelines continue to play a central role in a sentencing court's § 3553(a) calculus. The Second Circuit has recognized the continuing relevance of the Sentencing Guidelines following Booker in determining an appropriate sentence:

[I]t is important to bear in mind that Booker/ Fanfan and section 3553(a) do more than render the Guidelines a body of casual advice, to be consulted or overlooked at the whim of a sentencing judge. Thus, it would be a mistake to think that, after Booker/Fanfan, district judges may return to the sentencing regime that existed before 1987 and exercise unfettered discretion to select any sentence within the applicable statutory maximum and minimum. On the contrary, the Supreme Court expects sentencing judges faithfully to discharge their statutory obligation to "consider" the Guidelines and all of the other factors listed in section 3553(a). We have every confidence that the judges of this Circuit will do so, and that the resulting sentences will continue to substantially reduce unwarranted disparities while now achieving somewhat more individualized justice.

United States v. Crosby, 397 F.3d 103, 113-14 (2d Cir. 2005).

Under the non-mandatory Guideline regime established by Booker and Crosby, the

sentencing judge is empowered to make the factual findings necessary for determining what the recommended Guideline Sentence is in a particular case. Crosby, 397 F.3d at 113 (“the sentencing judge is entitled to find all the facts appropriate for determining either a Guidelines sentence or a non-Guidelines sentence”).

The judge must consider the Guidelines in conjunction with the other factors enumerated in § 3553(a), in order to determine whether there is any reason to deviate from the guideline range. These factors include: (1) “the nature and circumstances of the offense and history and characteristics of the defendant”; (2) the need for the sentence to serve various goals of the criminal justice system, including (a) “to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment,” (b) to accomplish specific and general deterrence, (c) to protect the public from the defendant, (d) “to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner”; (3) the kinds of sentences available; (4) the sentencing range set forth in the Guidelines; (5) policy statements issued by the Sentencing Commission; (6) the need to avoid unwarranted sentencing disparities; and (7) the need to provide restitution to victims.

Accordingly, in the majority of cases, a sentence within the guideline range is reasonable, and accommodates the congressional purpose set forth in § 3553(a), affirmed by the Supreme Court, of obtaining fair sentences which are uniform to the extent possible.

B. The PSR Properly Calculates the Defendant’s Guidelines Sentencing Range at 4-10 Months of Imprisonment.

The Government agrees with the PSR’s calculation of the defendant’s Guidelines range. More specifically, as part of the plea agreement in this case, the Government and the defendant

agreed that the defendant's applicable Sentencing Guidelines to be at a range of 4 to 10 months' imprisonment and a fine range of \$1,000 to \$10,000. With respect to the theft/bribery in federal programs, the Government and the defendant stipulate that the base offense level under U.S.S.G. § 2C1.1 is 11. Two levels are subtracted under U.S.S.G. § 3E1.1 for acceptance of responsibility, resulting in a total offense level of 9. A total offense level of 9 with a criminal history I, which the parties calculate the defendant to be, results in a guideline range of 4-10 months' imprisonment and a fine range of \$1,000 to \$10,000(U.S.S.G. § 5E1.2(c)(3)).

The defendant expressly understands that the Court is not bound by this agreement on the Guideline and fine ranges specified above. The defendant further expressly understands that she will not be permitted to withdraw the plea of guilty if the Court imposes a sentence outside the Guideline range or fine range set forth in this agreement.

As part of the plea agreement, the defendant and the Government agreed that in addition to the other penalties provided by law, the defendant would make restitution to the Government in the amount of \$600, which represents the value of the gratuities accepted by her during the investigation.

At this time, the defendant has not requested a departure from the Guidelines range or a non-Guidelines sentence. The defendant has accepted responsibility and "knows what she did was wrong." PSR ¶ 70. The defendant has acknowledged that between at least 2003 and 2007, she accepted gratuities from Philip Jacobs in return for taking action in her official capacity which assisted Jacobs in the bail bond business. PSR ¶¶6-16. In addition, the defendant accepted gratuities from Robert Jacobs, anywhere from \$50-\$100 three times a month, over a two year period in return for having acted in her official capacity to assist him. PSR ¶ 10. The defendant

worked for the Judicial Marshal Service; an arm of the Connecticut Judicial Branch. As with all law enforcement officials, the public relies on them to discharge their obligations fairly and impartially. In this instance, albeit for small dollar amounts, because of the gratuities corruptly accepted, the defendant violated that trust in a way that brings disrepute to the judicial system.

III. Conclusion

Based on all the facts of this case, the government respectfully requests that the Court impose a sentence in this case that reflects the seriousness of the offense, promotes respect for the law, and provides just punishment.

Respectfully submitted,

/s/
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CERTIFICATION OF SERVICE

I hereby certify that on May 16, 2008, a copy of the foregoing was filed electronically, by facsimile and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the Court's CM/ECF System.

/s/ Nora R. Dannehy
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