

**UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF CONNECTICUT**

UNITED STATES OF AMERICA,	:	
Plaintiff	:	NO. 3:18-cr-00294 (JBA)
	:	
v.	:	
	:	
KLITON RAKAJ	:	MARCH 19, 2019
Defendant.	:	

DEFENDANT KLITON RAKAJ’S SENTENCING MEMORANDUM

The undersigned hereby submits this Memorandum in connection with the sentencing of Kliton Rakaj scheduled for April 2, 2019.

Mr. Rakaj is 39 years old. He resides in Monroe, CT with his wife Luciana Coku-Rakaj, his daughter Marissa and his infant son, David. Prior to moving to Monroe in 2015, the family resided for two years in a rented apartment in Woodbridge, and before that with his parents, Vasil and Marije Rakaj, and his brother Rezart and his wife, in a one-family house in Ansonia, where his parents and brother and his family continue to reside.

Mr. Rakaj has worked his entire adult life, first for several years in Albania, in addition to fulfilling the mandatory one-year service in the Albanian army, and thereafter, following immigration to the United States in 1999, with his father and brother in the masonry business the elder Rakaj established in Connecticut shortly after his own arrival. PSR ¶¶ 66, 96. In addition, since 2010, he has also worked in the heating oil delivery business that he and his brother more recently opened to service retail and commercial customers in the winter season. PSR ¶ 65.

Mr. Rakaj comes before the Court with no criminal record, with a guidelines CHC score of zero. PSR ¶ 51. Following his waiver of indictment and guilty plea to the one-count Information, Mr. Rakaj was released on personal recognizance, with no pretrial supervision, and has remained in compliance with the terms of his release. PSR ¶ 5.

As confirmed in the attached letters like parents and his brother Rezart, Kliton is devoted to his family. Despite working 12 to 14-hour days to support them, Kliton makes it priority to spend time with his wife and children, and to visit with his parents several times a week and the entire extended family every weekend. PSR ¶ 58; **Ex. A**, p. 1. In addition, he maintains a commitment to assisting those in need outside the immediate family, including relatives in Albania. PSR ¶ 63. *See also*, **Ex. A**, p. 2. And both his wife Luciana, and his sister-in-law, Aferdita, describe the support and unwavering devotion that Kliton exhibited in helping Luciana through life-threatening surgery four years ago. **Ex. A**, pp. 1-2 (“there every second along the way;” caring for their then 6-year old daughter while she was hospitalized in New York; and checking on her every day on his lunch hour during the five weeks of her subsequent convalescence at home); **Ex. C** (“Kliton’s support towards his wife’s surgery and recovery was outstanding” -- “a blessing”). Luciana’s letter also describes the special role that Kliton plays in the life of their daughter Marissa, and his patience in helping her struggle with a disability that both Marissa and Luciana require his support to address. **Ex. A**, p. 2.

The letter submitted by Mr. Rakaj’s father, Vasil, describes the challenges (“new difficulties to overcome”) Kliton faced when he first arrived here twenty years ago: “As in Albania, here, Kliton showed devotion and determination, learning the English language and becoming a main force in the family.” **Ex. B**. And as all the letters of support attest,

Kliton's work ethic, self-discipline and support for all those he encounters lie at the core of the success this immigrant family has achieved, in the best traditions of this country from inception. As Aferdita observes from her position of relative late-comer, Kliton had "extraordinary communication . . . with his brother and father and the way they were always united and did everything together in order to surpass the difficulties of the new life here in U.S.A." **Ex. C.** She goes on to note that Kliton and Luciana's move to Monroe was made possible only after "a lot of sacrifices," and that notwithstanding mistakes ("in business . . . as in life"), both Kliton and his brother "are good learners and . . . always take mistakes as lessons", and thereby "become better individuals and businessmen." *Id.*

As noted in the Sentencing Memorandum filed on this date on behalf of Rezart Rakaj, the offense of which the two of them will stand convicted involved the acquisition and renovation of a long-vacant and neglected commercial building on Wallace Street in New Haven – a property on which, at the time of the acquisition, there were more than \$90,000 in unpaid property taxes, The company formed to acquire the property by Mr. Rakaj, his brother Rezart and an older cousin (Aleks Rakaj), 206 Wallace Street, LLC,¹ paid off those taxes and ultimately restored the property to the tax-paying rolls of the City, where it remains to this day.²

Mr. Rakaj has acknowledged the wrongfulness of his conduct in exposing himself and family members to the asbestos containing material located at the premises, and in

¹ As noted in the PSR, Aleks Rakaj is no longer affiliated with the Wallace Street LLC, or any other business in which Kliton and Rez are involved. PSR ¶ 31a.

² In addition to the current real estate tax payments of approximately \$42,000 per year, the Rakajs' oil delivery company pays additional thousands of dollars per year in personal property taxes to the City on its trucks and other equipment located at premises.

failing to follow the proper procedures in seeking to remove it from the pipes and flooring at 206 Wallace Street. It is conduct for which he and his brother take full responsibility, PSR ¶ 36, and have learned an indelible lesson. Following the events of late November 2015, a hazardous materials firm was brought in to complete the work properly and to dispose of the material in accordance with proscribed regulations, and the building subsequently was granted the requisite permits to operate as an approved facility in the light industrial zone that it remain to this date.

The issue now before the Court, and which this Memorandum seeks to address, is the appropriate sentence for this single mar on the otherwise crime-free and positive life of this 39-year-old man. For the reasons set forth below, it is respectfully submitted that the appropriate sentence, “sufficient but not greater than necessary” to accomplish the purposes of sentencing under federal law, 18 U.S.C. § 3553(a)(2), is a sentence of probation,

First, a sentence of probations is expressly authorized by the sentencing guidelines applicable to this case, see PSR. ¶¶ 39-48, 5, 73; U.S.S.C. § 5B1.1(a)(1), in that the sentencing range under the guidelines falls squarely within Zone A of the Sentencing Table. U.S.S.C., Ch. Five, Part A – Sentencing Table.

Second, such expressly authorized sentence of probation, in conjunction with the federal felony conviction that Mr. Rakaj must live with the rest of his life, is hardly a de minimis event. A sentence of probation and the collateral effects of such a sentence (and felony conviction) are in themselves weighty consequences that will severely impact Mr. Rakaj in multiple respects. The Supreme Court in *Gall v. United States*, 552 U.S. 38 (2007), in the probation sentence in that case, involving a defendant’s seven-

month involvement in a conspiracy to distribute controlled substances, forceful noted that fact, as follows:

Offenders on probation are . . . subject to . . . substantial[ly] restrict[ions on] their liberty. [They] may not leave the judicial district, move, or change jobs without notifying, and in some cases receiving permission from, their probation officer or the court. They must report regularly to their probation officer, permit unannounced visits to their homes, [and] refrain from associating with any person convicted of a felony. . . . USSG § 5B1.3.

Id. at 48.

Moreover, as the submissions in the present case indicate, in addition to the constraints of collateral consequences and probationary conditions, there is substantial evidence Mr. Rakaj has already suffered adverse consequences that will continue through any probationary period the Court may impose. The presentence report notes that the current prosecution has taken a toll on everyone involved, including in particular the parents that Mr. Rakaj holds in such high esteem, PSR ¶ 58 (“Mr. Rakaj acknowledged that the current prosecution has been very hard on his parents, and stated it is ‘weighing on them.’ He noted they are not used to these types of interactions, and stated no one in the family had ever had problems with laws enforcement or the government”), as the concluding comments in Vasil Rakaj’s letter themselves indicate (the sons “should be more knowlidgable [sic] for the laws of this great country”, **Ex. B**). In short, a sentence of probation in the present case will sufficiently serve the just punishment and general deterrence purposes under 18 U.S.C. § 3553(a)(2)(A) & (2)(B).

Third, as to concerns with recidivism (specific deterrence) under §3553(a)(2)(C), there is little to no likelihood that, regardless of the sentence imposed in this case, Mr. Rakaj will ever offend again. As attested in the letters being submitted to the Court, Mr. Rakaj has consistently displayed integrity and solid moral character in all his dealings in

past – a quality ingrained and noted since childhood. See, e.g., **Ex. B & Ex. D**. Moreover, in addition to this lifelong track record of integrity, the unlikelihood of recidivism in the case of Mr. Rakaj is confirmed by the factors that the Sentencing Guidelines Commission studies have identified as correlating with lack of recidivism: age (40 years of age this coming month); stable employment history; family ties; abstinence from drug use; and non-violent offender. See U.S. Sentencing Comm'n, *Measuring Recidivism: The Criminal History Computation of the Federal Sentencing Guidelines* (May 2004), pp. 11-13.

Fifth, a sentence of probation will appropriately address the need to avoid unwarranted sentencing disparities pursuant to §3553(a)(3)(6) – a central purpose of the guidelines, reinforced by a sentence at the very level that the guidelines calculations themselves support.

Finally, a sentence of probation will appropriately reflect the history and characteristics of the defendant – a lifetime of law-abiding, hard-working contribution to the welfare and betterment of everyone around him and the community in which he resides, as set forth above and confirmed by the PSR and the attestations submitted herewith from those who know him best.

Based on the foregoing, it is respectfully submitted that a sentence of probation would best comport with the letter and intent of § 3553 and should be the sentence imposed here.

THE DEFENDANT
KLITON RAKAJ

By s/Kenneth Rosenthal
Kenneth Rosenthal (ct05944)
Green & Sklarz LLC
700 State Street
New Haven, CT 06511-1746
203-915-4235
Email krosenthal@gs-lawfirm.com

CERTIFICATE OF SERVICE

This is to certify that on March 19, 2019, a copy of the foregoing was filed electronically (and served by mail on anyone unable to accept electronic filing). Parties may access this filing through the Court's system.

s/Kenneth Rosenthal
Kenneth Rosenthal
Attorney for Defendant Kliton Rakaj