

COURT MINUTES OF SENTENCING HEARING

UNITED STATES of AMERICA,

v.

CASE NO. 15-CR-115-1-JPS

TODD A. DYER.

HON. J. P. STADTMUELLER PRESIDING

DATE: March 8, 2017

TIME SCHEDULED: 8:30 a.m.

COURT DEPUTY/CLERK: Christopher Bader

TIME CALLED: 8:33 a.m.

COURT REPORTER: Heidi Trapp

TIME FINISHED: 9:35 a.m.

GOVERNMENT BY: Joseph Wall and Benjamin Proctor

DEFENDANT BY: Todd A. Dyer, *pro se*

PROBATION BY: Daniel Dragolovich

Notes:

8:33 a.m. Appearances; Court puts background of case on record, including Defendant's having pled guilty to Counts Two and Twenty-One of the Superseding Indictment; Court notes it has reviewed the March 1, 2017 revised presentence report

8:34 Court inquires whether Defendant has objections to the revised presentence report; Defendant states that he has reviewed it and has many objections; Court admonishes Defendant that he must state specific objections, not blanket challenges

8:36 Defendant comments on pending motion to withdraw guilty plea; Court notes that motion is without merit; Defendant responds; Court comments further

8:44 Government reports that it has reviewed the revised presentence report and has no objections; Court adopts facts set forth in revised presentence report based on the evidence introduced at trial and the record as a whole

8:45 Court notes applicable guidelines:

Total Offense Level: 30, with a 2-point enhancement pursuant to paragraph 22 of the plea agreement relating to a recommendation of a concurrent sentence in another case pending in a different branch of the court, 16-CR-100, for a total offense level of 32

Criminal History Category: IV

168 to 210 months imprisonment

1 to 3 years of supervised release

\$1,802,482.00 restitution (\$444,885.00 joint and several with co-defendant Nicholas Hindman)

\$15,000.00 to \$150,000.00 fine

\$200.00 special assessment

8:47 No party objects to guidelines calculations; Court adopts guidelines calculations

8:50 Defendant declines to make a statement on his own behalf

8:50 Government calls Trent Griffith, one of the victims, to address the Court; Mr. Griffith makes a statement

8:54 Government makes a statement, including summarizing several victim impact statements; government recommends a sentence within applicable guidelines range and 3-year period of supervised release

9:11 Defendant makes a statement on his behalf, referencing his recent motions

9:15 Court discusses statements of the parties, facts of the case, and facts and guidelines as presented in revised presentence report, as well as the appropriate, fair, just, and reasonable sentence

9:27 No party has any objection to the Court's previously circulated conditions of supervised release

9:29 Court imposes the following formal sentence:

- 180 months of incarceration as to Count Two and 120 months of incarceration as to Count Twenty-One, to run concurrently, for a total term of 180 months
- 3 years of supervised release as to Count Two and 3 years of supervised release as to Count Twenty-One, to run concurrently, for a total term of 3 years of supervised release; term subject to previously circulated conditions
- \$1,802,482.00 in restitution, \$444,885.00 of which is owed jointly and severally with co-defendant Nicholas Hindman
- Fine is waived
- \$200.00 special assessment

Counts One, Three through Twenty, and Twenty-Two through Twenty-Four in the Superseding Indictment as to this defendant will stand dismissed, pursuant to Defendant's plea agreement

Court will recommend to Bureau of Prisons that Defendant's sentence be served at a federal facility most near the Eastern District of Wisconsin

Defendant will be remanded into the custody of the U.S. Marshal

9:34 Court advises Defendant of right to appeal

9:34 Government has nothing further to address

9:34 Defendant objects to immediate remand into custody; Court denies request for voluntary surrender

9:35 Court stands in recess

FORMAL SENTENCE

Custody of Bureau of Prisons

One Hundred Eighty (180) months as to Count Two, One Hundred Twenty (120) months as to Count Twenty-One, to run concurrently, for a total term of One Hundred Eighty (180) months

Supervised Release/Probation

Three (3) years as to Count Two; Three (3) years as to Count Twenty-One, to run concurrently, for a total term of Three (3) years

Fine

Terms: \$0.00

- Fine waived due to defendant's inability to pay
- Interest on fine waived
- Deft. to participate in FBP Inmates' Financial Responsibility Program
- Payments to apply to special assessment and then to the fine or restitution (if applicable)
- Court imposes costs of incarceration, community confinement and supervision

Restitution

Terms: \$1,802,482.00 (\$444,885.00 joint and several with co-defendant Nicholas Hindman)

Payee(s): See March 1, 2017 Revised Presentence Report (Docket #216) ¶ 223 for list of payees

Special Terms of Payment: n/a

Special Conditions of Supervised Release/Probation

- | | |
|--|--|
| <input checked="" type="checkbox"/> report within 72 hours | <input checked="" type="checkbox"/> notify probation of change of residence or employment |
| <input checked="" type="checkbox"/> no firearms | <input checked="" type="checkbox"/> no association with criminals |
| <input checked="" type="checkbox"/> no other crimes | <input checked="" type="checkbox"/> permit probation visits and confiscation |
| <input checked="" type="checkbox"/> no possession of controlled substances | <input checked="" type="checkbox"/> notify probation of arrest |
| <input checked="" type="checkbox"/> shall not knowingly leave district | <input checked="" type="checkbox"/> no informer agreement without approval |
| <input checked="" type="checkbox"/> follow probation officer instructions | <input checked="" type="checkbox"/> no use of credit without approval until financial obligations of sentence are satisfied |
| <input checked="" type="checkbox"/> best efforts to secure full-time employment | <input checked="" type="checkbox"/> shall give probation officer access to financial information and shall file financial report |
| <input checked="" type="checkbox"/> pay restitution at a rate of \$100.00 per month | |
| <input checked="" type="checkbox"/> shall not transfer assets over \$500.00 without approval until financial obligations of sentence are satisfied | |
| <input checked="" type="checkbox"/> drug testing | |

Special Assessment

\$200.00

- To be paid immediately to the Clerk of Court, Room 362
- To be paid prior to expiration of this sentence.

Forfeiture

Terms: None

Custody Status

- Defendant remanded to custody of U.S. Marshal.
- Execution of sentence stayed until _____
- Defendant voluntary surrender to institution
- Defendant's bond continued until he/she reports.
- Defendant advised of right to appeal.
- Recommendation to Bureau of Prisons: that Defendant be incarcerated at a federal facility most near the Eastern District of Wisconsin.

Other

- Pursuant to the parties' plea agreement, Counts One, Three through Twenty, and Twenty-Two through Twenty-Four as to this defendant be and the same are hereby DISMISSED

STATEMENT OF REASONS

- The Court adopts the factual findings and guideline application in the presentence report
or
- The Court adopts the factual findings and guideline application in the presentence report except as noted at sentencing.

Guideline Range Determined by the Court:

Total Offense Level:	30, with 2-point enhancement based on parties' plea agreement, for total offense level of 32
Criminal History Category:	IV
Imprisonment Range :	168 - 210 months
Supervised Release Range:	1 - 3 years
Restitution:	\$1,802,482.00 (\$444,885.00 joint and several with co-defendant Nicholas Hindman)
Fine Range:	\$15,000.00 - \$150,000.00
Special Assessment:	\$200.00

- Fine is waived or is below the guideline range because of def.'s inability to pay.
- Full restitution is not ordered for the following reasons:
 - The sentence is within the guideline range, that range does not exceed 24 months, and the Court finds no reason to depart from the sentence called for by application for the guidelines
or
 - The sentence is within the guideline range, that range exceeds 24 months, and the sentence is imposed for the following reasons: see reasons set forth on the record at sentencing
or
 - The sentence departs from the guideline range for reasons set forth at sentencing