

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
v.)
)
STEVEN L. BLACKETER,)
)
 Defendant.)

Case No. 09-00121-CR-W-GK

**DEFENDANT’S SENTENCING MEMORANDUM
AND MOTION FOR VARIANCE**

COMES NOW defendant Steven L. Blacketer, by and through his attorney Christopher M. Brennan, and offers the following Memorandum to assist the Court at sentencing. Further, defendant moves this Honorable Court for a variance in his sentence under the United States Sentencing Guidelines pursuant to United States v. Gall, 128 S. Ct. 586, 588 (2007).

INTRODUCTION

As the Presentence Investigation Report accurately details the procedural history of Mr. Blacketer’s case and there were no objections, a detailed review of same is unnecessary. It is sufficient to note that Mr. Blacketer pleaded guilty to Counts Two and Thirteen of the Indictment, charging him with Conspiracy to Distribute 500 Grams or More of Methamphetamine and Money Laundering, respectively. The corresponding offense level after adjustments is 31. Factoring in Mr. Blacketer’s criminal history score,

a guideline sentencing range of 168 to 210 months is reached. The mandatory minimum sentence is 120 months.

AUTHORITY

As the Sentencing Guidelines are now advisory, providing a “starting point and initial benchmark...” United States v. Gall, 128 S. Ct. 586, 588 (2007), the Court is now required to consider all the factors set forth in 18 U.S.C. §3553(a) to determine whether they support the proposed sentence. Id. at 597. The factors to be considered are:

- (1) The nature and circumstances of the offense and the history and characteristics of the defendant;
- (2) The need for the sentence imposed to:
 - (A) Reflect the seriousness of the offense, to promote respect for the law and to provide just punishment for the offense;
 - (B) To afford adequate deterrence to criminal conduct;
 - (C) To protect the public from further crimes of the defendant; and
 - (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 kinds of sentence and sentencing range established for the applicable category of offense committed by the defendant as set forth in the guidelines;
- (5) Any pertinent policy statement;

- (6) The need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct; and
- (7) The need to provide restitution to victims of the offense.

Upon an examination of the above factors the Eighth Circuit has held that district courts have the flexibility to vary from the guidelines to provide individualized sentences when necessary. See United States v. Maloney, 466 F.3d 663, 668 (8th Cir. 2006).

ARGUMENT

Steve Blacketer was heavily involved in the use and sale of illegal narcotics for the majority of his adult life. His drug of choice was methamphetamine and he is an admitted addict. However, **PRIOR** to the filing of the indictment in which he was charged with the instant offenses, Mr. Blacketer made a conscious decision to radically alter his life. In fact **TWO** years **BEFORE** being charged, Mr. Blacketer sought treatment and discontinued his use of methamphetamine. He has now been clean and sober for nearly four years.

While breaking a lifelong addiction to methamphetamine is remarkable enough, what is more astounding is that Mr. Blacketer did so without the threat of criminal charge or punishment. There were no pending charges and no potential prison sentences, in short there was no one saying “Clean Up or Else.” Mr. Blacketer simply made a decision to change his life in every way. He disassociated with every one of his friends, he reconnected with family who had disowned him, he sought and maintained employment, he joined a church, he began attending and ultimately leading a Narcotics Anonymous chapter and he volunteered his time to those in need.

Mr. Blacketer has continued to demonstrate his change in character since his arraignment and placement on pretrial supervision in April of 2008. He has performed flawlessly his entire time on supervision, never missing an appointment and never testing positive for a controlled substance. Despite the fear and anxiety he has suffered he was not tempted to return to his former vice.

18 U.S.C. § 3553(a) enumerates many factors to consider when determining whether they support a particular sentence. In Mr. Blacketer's case a sentence of 168 to 210 months is not supported by these factors. As discussed at length above, the history and characteristics of the defendant are exemplary. A sentence in line with the 120 month statutory minimum would reflect the seriousness of the offense and provide a just punishment. Such a sentence would still serve as an adequate deterrent and there is no need that the public be protected from a man like Steve Blacketer. He would be afforded the opportunity to continue in his recovery and receive education and vocational training. Further, a 120 month sentence would be much closer to the sentences received by Mr. Blacketer's co-defendants.

ADDITIONAL RECOMMENDATIONS

Mr. Blacketer further requests that he be placed in a correctional facility in the North Central Region where he can participate in the 500 hour intensive drug treatment program and continue his vocational training in HVAC.

CONCLUSION

WHEREFORE for the foregoing reasons counsel for defendant respectfully moves this Honorable Court grant relief consistent with that herein requested.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on Thursday, July 16, 2009, a copy of the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system which sent notification of the filing to the counsel of record for all parties.

/s/ Christopher M. Brennan
CHRISTOPHER M. BRENNAN #53324