

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

UNITED STATES OF AMERICA,	)	
PLAINTIFF,	)	
vs.	)	Criminal Action No.
	)	10-00162-12-CR-W-FJG
ANTAR ROBERTS,	)	
DEFENDANT.	)	

**DEFENDANT'S SENTENCING MEMORANDUM**

COMES NOW the Defendant, Antar Roberts, by and through his attorney, Lisa G. Nouri, and hereby submits his Sentencing Memorandum in the above-referenced case.

**I. PROCEDURAL BACKGROUND**

1. On June 28, 2010, Roberts appeared before the Court, and pursuant to a written plea agreement, entered a plea of guilty to conspiracy to distribute 500 grams or more of cocaine and 5 grams or more of cocaine base, a lesser-included offense to Count 1, in violation of 21 U.S.C. 841(a)(1) and (b)(1)(B), and 851.

2. The statutory range of punishment is no less than 10 years. The government agreed not to seek an upward departure from the guidelines or a sentence outside the guideline range, and although the defendant agreed not to seek a downward departure, the written plea specifically anticipated the defendant requesting a statutory minimum sentence of 120 months using the 3553 factors as a basis for a variance from the guideline sentencing range.

3. The presumed sentencing range calculated in the presentence investigation report is 151 to 188 months based on offense level of 29 after acceptance of responsibility.

## **II. UNRESOLVED ISSUES**

Defendant reasserts and incorporates his response to the presentence investigation report previously submitted to the probation officer. Defendant adds that based on the classification of his culpability relative to other defendants in the charged conspiracy, he should be entitled to a three level reduction for a mitigating role in the offense. This assertion is based on Application Note 3(A) under USSG Guidelines Section 3B1.2. The defendant is substantially less culpable than the average participant and a three level reduction is warranted which would then put the total offense level at 26 for a range of 120-150 months.

## **III. 3553(a) FACTORS**

In determining an appropriate sentence, a district court must begin the sentencing procedure by calculating the applicable guidelines range. *Gall v. United States*, 552 U.S. 38 (2007). The court is then required to consider all the factors set forth in 18 U.S.C. Section 3553(a) to determine whether they support the sentence requested by a party. If appealed, the district court's sentencing decision will be reviewed using the deferential abuse of discretion standard.

The court shall impose a sentence sufficient, but not greater than necessary, to comply with the purposes of sentencing. To inform its decision, the court should consider the following factors:

(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;

(D) To provide the defendant with needed educational or vocation 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 any victims of the offense.

18 U.S.C. Section 3553(a)(1)-(7).

#### **APPROPRIATE SENTENCE**

The sentence this court imposes needs to reflect the seriousness of the offense, promote respect for the law, and provide just punishment for the offense. Defendant asks for a sentence of 120 months (outside of the guideline range pursuant to the presentence report but inside the range if he receives a three

level mitigating role adjustment) based on a consideration of all the 3553 factors. He has been rated in the third tier of this conspiracy per the government. In other words, in the 50-75% quarter of all the charged conspirators. The government's own investigative report cites defendant as a marijuana user/seller who had been supplied with 7 gram quantities of powder cocaine in the past from one of the higher rated defendants who is a cooperator.

The sentence needs to afford adequate deterrence to criminal conduct and to protect the public from further crimes. Sentencing the defendant to 120 months will serve not only to dissuade others but also prevent Mr. Roberts from committing future crimes as he will still be subject 8 years of supervised release after incarceration. Understandably, the public should be protected from future crimes. But in 120 months (minus the credit for time already served) plus another 8 years of supervised release the defendant, who is nearing 40 years old, will be a much different man. His mother is just hoping to hang on to see him released from prison some day.

To provide further assistance to the court in considering relevant factors, Defendant advises that he does have a work history and is eager to gain employment after his incarceration. He was raised in a loving and stable home and had parents who worked all their lives. He knows better. His family continues to support him and believe in his ability to become a good citizen. Because of his incarceration at Osceola, his mother and brother have only been able to visit him one time recently. Through all this, he has maintained a positive relationship with his family and

his counsel. He accepts full responsibility for his actions and puts no blame on others.

The sentence also needs to provide educational assistance and vocational training and other correctional treatment in the most effective manner. Mr. Roberts requests the ARDAP program as he has admitted that he has "an addictive nature." He also is researching which facilities provide the best opportunity for learning vocational skills and will ask the Court to recommend placement at such a facility to serve his sentence and gain valuable training.

Since his incarceration on this offense, Mr. Roberts has expressed deep remorse and shame for putting his family through this ordeal. He has attempted to counsel young inmates, gang bangers, on the need to change their lifestyle before ending up dead. Most of these inmates do not have the benefit of a structured family environment that Roberts had and he is making every effort to try and let these fellow prisoners know that the criminal life is not productive. He himself has gained much wisdom from a significantly older inmate and has caused him to realize how much of his adult life he has wasted when he could have been working as a legitimate citizen.

In summary, a 120 month sentence will provide all the protections necessary to comply with the purposes of sentencing but still allow the defendant to dream about making a life for himself on the outside while gaining all the benefits afforded to him in prison. Should he have **any** misstep on supervised release, the court could always sentence him to up to an additional 8 years.

WHEREFORE, based on the foregoing, Defendant, Antar Roberts, requests that this Honorable Court impose a sentence consistent with the suggestions contained in the Memorandum, and for further relief deemed proper by the Court.

Respectfully submitted,

/s/Lisa G. Nouri  
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ATTORNEY FOR DEFENDANT

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing motion was electronically filed this 4th day of November, 2011 pursuant to the Electronic Case Filing system.

/s/Lisa G. Nouri  
Attorney for Defendant