

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

<b>UNITED STATES OF AMERICA</b>	)	
	)	
<b>Petitioner,</b>	)	
	)	<b>Case No. 10-00162-07-CR-W-FJG</b>
<b>v</b>	)	
	)	
<b>CALAH D. JOHNSON,</b>	)	
	)	
<b>Defendant.</b>	)	

**DEFENDANT’S SENTENCING MEMORANDUM**

\_\_\_\_\_ **COMES NOW** Defendant Calah Johnson, by and through his attorney and hereby submits this Sentencing Memorandum. The sentencing hearing is set for August 24, 2012, at 9:30 a.m. This Memorandum is respectfully filed to assist the Court in determining an appropriate sentence in this case.

**PROCEDURAL BACKGROUND**

On May 26, 2010 Defendant was named in a 17 count Indictment. Count 1 charged Defendant with conspiracy to distribute 5 kilograms or more of cocaine and 50 grams or more of cocaine base, a violation of 21 U.S.C. (841) (a) (1), (b) (1) (A) and 846, which occurred between July 1, 2009 and May 16, 2010.

Counts 7, 15 and 16 charged Defendant with possession of a firearm, violations of 18 U.S.C. 924 © (1) (A), 922 (g) (1) and 924 (9) (2).

Defendant was not named in counts 2-6, 8-14 or 17.

On June 9, 2010 was arrested and remains incarcerated.

On February 7, 2012 Defendant entered a guilty plea to Count 1. Counts 7, 15, and 16 will be dismissed by the Government.

## UNRESOLVED ISSUES WITH RESPECT TO PSR

Both counsel and Defendant have received and reviewed the PSR and Defendant has previously indicated there would be no objections to the report.

### ARGUMENT

The plea agreement states that the United States would not seek an upward departure or sentence outside the guideline range while the Defendant will not seek a downward departure or sentence outside the Guideline range but may request the court to sentence him to the statutory minimum. 18 U.S.C. § 3553 (a) lists some factors for the Court to consider in imposing a sentence. In reaching a decision as to a sentence imposed a sentencing court generally engages in a multi-step process. First it determines a proper Guideline range. Secondly, the Court considers whether a departure or variance is appropriate and then the Court considers the factors in § 3553 (a) to determine whether it should impose a non-guideline sentence.

#### **1. Nature and circumstances of the offense and the history and characteristics of the defendant.**

The nature and circumstances of the offense are outlined in the PSR paragraphs 37-47. The Defendant is a 31 year old male who has been in trouble for most of his life, being born to a woman with a long history of drug abuse and legal troubles, more adequately explained in paragraph 85.

During the more than 2 years Defendant has been incarcerated awaiting the disposition of these charges he has gone from a defiant attitude to one of realization. A realization that his past behaviors are unacceptable to a lawful, functioning society and that his actions have been harmful to many people, especially himself. He also realizes that his actions have forced the government to take control of his life until well past his 50<sup>th</sup> birthday, which is so distant in the horizon he can hardly envision it.

**2. The need for the sentence imposed to reflect the seriousness of the offense, to promote respect for the law and to provide just punishment for the offense; to afford adequate deterrence to criminal conduct; to protect the public from further crimes of the defendant; and to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner.**

A sentence of 240 months will meet the concerns of the sentence being adequate to reflect seriousness of the offense and deter the Defendant and others who know of its length from committing other crimes. A sentence of 240 months will also afford the Defendant ample opportunities to educate himself and teach him how to better live within his community.

**3. The kinds of sentences available to the Court.**

After considering the Guideline's computation and section 3553 factors a sentence to the statutory minimum is one available to the Court and is anticipated in the Plea Agreement wherein the Government will not seek an upward departure and not object to Defendant requesting a sentence of 240 months.

**4. The need to avoid unwanted sentence disposition.**

If the Court grants our requests Defendant will receive the 2<sup>nd</sup> highest amount of time of the 25 defendants in this case.

**SENTENCING RECOMMENDATION**

Mr. Johnson respectfully requests this Honorable Court to consider his individual circumstances and sentence him to the statutory minimum of 240 months.

**CONCLUSION**

Defendant requests the Court to exercise its discretion and impose a sentence of 240 months, such sentence being fully in comport with the factors in § 3553 (a).

Respectfully submitted,

/s/ Kurt Marquart

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ATTORNEY FOR DEFENDANT  
CALAH D. JOHNSON

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**CERTIFICATE OF SERVICE**

On August 9, 2012I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send notice of electronic filing to all parties of record herein.

/s/Kurt Marquart  
Kurt D. Marquart