

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

UNITED STATES OF AMERICA, : **CRIMINAL NO. 14-CR-184 (KBJ)**
 :
v. :
 :
ANDRE HAMMOND, : **SENTENCING: DEC. 3, 2015**
Defendant. :

SUPPLEMENT TO GOVERNMENT’S MEMORANDUM IN AID OF SENTENCING

The United States, by and through its attorney, the United States Attorney for the District of Columbia, hereby submits the following supplement to the government’s memorandum in aid of sentencing in order to assist the Court in issuing an appropriate sentence in this case. For the reasons set forth in the government’s original memorandum and further supported herein, the government recommends that the Court sentence the defendant to an aggregate period of 108 months (9 years) of incarceration. The government further recommends that the Court sentence the defendant to a period of at least 30 years of supervised release, with conditions that include intensive sex offender treatment, limited direct and/or unsupervised contact with minors, and a stay away/no contact order from the victim in this case. The government also requests that the defendant’s computer and internet usage be restricted and monitored. The defendant is required by statute to register as a sex offender for the remainder of his life.

I. PROCEDURAL BACKGROUND

On September 30, 2014, the defendant entered a guilty plea to the following three counts: 1) Failure to Register as a Sex Offender, in violation of 18 U.S.C. § 2250(a); 2) Commission of a Crime of Violence While Failing to Register as a Sex Offender, in violation of 18 U.S.C. § 2250(c); and 3) Second Degree Child Sexual Abuse, in violation of 22 D.C. Code § 3009. A sentencing date of January 13, 2015 was originally scheduled. The government filed its

Memorandum in Aid of Sentencing on December 30, 2014, in advance of the first sentencing date.

On December 31, 2014, the Court ordered that the defendant be sent to the Federal Correctional Institution in Butner, North Carolina (“FCI Butner”) for a psychological and psychosexual examination. The sentencing date was then rescheduled to April 22, 2015 in order for the defendant to undergo the examination. However, the examination was not on track to be completed prior to the April sentencing date, so a new sentencing date of June 18, 2015 was thereafter scheduled. A report dated May 4, 2015 was completed by Dr. Heather Ross and submitted to the Court on May 5, 2015. Subsequently, the defendant’s attorney retired from the Office of the Federal Public Defender and on June 9, 2015, his successor filed a motion to continue the sentencing date. The sentencing date was thereafter rescheduled to July 21, 2015.

However, prior to that date, the defendant sent a *pro se* letter to chambers asking to withdraw his plea based upon a claim of ineffective assistance of counsel. Accordingly, the July sentencing date was vacated and new counsel was appointed. After reviewing the case with his new attorney, the defendant ultimately withdrew his request to withdraw his plea and the current sentencing date of December 3, 2015 was scheduled. The government submits this filing as a supplement to its previous sentencing memorandum in order to address the results of the FCI Butner psychological/psychosexual report (“Butner Report”), pursuant to the Court’s request.

II. SUPPLEMENT TO GOVERNMENT’S RECOMMENDATION

The government submits that the previously recommended sentence of nine years (108 months) of incarceration remains appropriate and is warranted in this case based on the factors outlined in 18 U.S.C. § 3553(a). In addition, the government urges the Court to mandate that the defendant’s supervision period be for a term of at least 30 years, with specific conditions of supervision that include intensive sex offender treatment, limited direct and/or unsupervised

contact with minors, and a stay away/no contact order from the victim in this case. The government also requests that the defendant's computer and internet usage be restricted and monitored. This recommendation is supported by the Butner Report and is consistent with the supervision conditions recommended by Dr. Ross on page 29 of the report. In light of the recommendations contained in the Butner Report, the government would also request that any period of supervised release include a restriction from areas where teenagers are known to congregate, such as schools, youth organizations, and youth events. The recommended sentence is sufficient, but not greater than necessary, to accomplish the purposes of sentencing.

The sentence recommended by the government is further supported by the Butner Report in the following key areas: dangerousness and need for treatment. First, the Butner Report provides additional information about the defendant's history and characteristics that supports the government's assertion that the defendant is a danger to the community. Specifically, the Butner Report describes how the defendant was, himself, a victim of child sexual abuse that was both prolonged and perpetrated by multiple offenders. See Butner Report at 11-12. According to the Butner Report, the defendant's beliefs about his prior victimization render the defendant a danger to the community because the defendant has suggested that his own sexual abuse caused him to abuse others, which constitutes a belief that may justify or excuse his conduct. See id. at 27. Such a belief has been identified as a risk factor for future sexual abuse. See id. at 26. The defendant's focus on his own victimization is also indicative of underlying hostility which could create a desire to punish others. See id. at 27. This is another risk factor identified and explained in the Butner Report. See id. at 27-28.

As described in the Butner Report, a well-known risk assessment instrument (Static-99) designed to assist in the prediction of future sexual and violent recidivism amongst sex offenders

places the defendant in the “Moderate-High” risk category. See id. at 26. As referenced in the government’s original sentencing memorandum, it should be noted that the Static-99 instrument shows that recidivism rates amongst sex offenders actually increase with time. See Harris, Phenix, Hanson & Thorton, Static-99 Coding Rules, 69 (2003). Accordingly, the defendant is a danger to the community: now and in the future. For these reasons, it is important that the defendant receive a lengthy sentence that removes the defendant from the community and includes a long period of supervised release to include intensive sex offender monitoring and treatment. The sentence recommended by the government accomplishes these goals.

Second, the Butner Report lends further support to the conclusion that the defendant is in need of intensive treatment because Dr. Ross highlights a troubling history of sex offender treatment...or lack thereof. Specifically, as noted in the Butner Report, the defendant *began* sex offender treatment following his prior sex offense conviction, but never actually *completed* treatment. See id. at 14. When Dr. Ross focused on the defendant’s sex offender treatment history, the defendant stated: “I ain’t never need it.” Id. at 13. This denial of a need for sex offender treatment is extremely troubling and further amplifies the extent to which the defendant really *does* need treatment. Accordingly, the government submits that the defendant is an individual who desperately needs sex offender treatment and that any period of supervised release should include intensive treatment requirements in order to mitigate the defendant’s risk to the community.

III. CONCLUSION

WHEREFORE, for all of the reasons set forth herein and previously outlined in the government’s original sentencing memorandum, the government recommends that the Court sentence the defendant to 108 months (9 years) of incarceration. The government further recommends that the Court sentence the defendant to a period of at least 30 years of supervised

release, with the recommended conditions of supervision as described above. The defendant is further required by statute to register as a sex offender for the remainder of his lifetime.

Respectfully submitted,

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