

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Criminal No. 12-268 (JNE/JSM)

UNITED STATES OF AMERICA,

Plaintiff,

v.

UNITED STATES POSITION
WITH RESPECT TO
SENTENCING

(2) QUENTIN MICHAEL GRAHAM,

Defendant.

The United States of America, by and through its attorneys, B. Todd Jones, United States Attorney for the District of Minnesota, and LeeAnn K. Bell, Assistant United States Attorney, submits its position with respect to the sentencing of defendant Quentin Michael Graham.

I. THE PRESENTENCE INVESTIGATION.

The United States has reviewed the Presentence Investigation Report (“PSR”) prepared by the U.S. Probation Office. The United States has no objection to the facts or the Guidelines range of 70-87 months imprisonment as set forth in the PSR.

II. ANTICIPATED CHALLENGES TO CRIMINAL HISTORY.

Defendant noted that he objects to criminal history points assigned for a 2009 petty misdemeanor for possession/sale of small amount of marijuana. See ¶ 40. As set forth in the PSR, this conviction was properly assigned a criminal history point. Additionally, the Eighth Circuit has recently addressed the addition of criminal history points for a similar marijuana conviction and determined that it quite properly received criminal history points. See United States v. Foote, 705 F.3d. 305 (8th Cir. 2013).

III. THE APPROPRIATE SENTENCE.

Taking all of the relevant sentencing factors into account, the United States believes that the appropriate sentence is 78 months imprisonment, in the middle of the applicable guideline range.

In Gall v. United States, 552 U.S. 38 (2007), the Supreme Court set forth the appropriate sentencing methodology: the district court calculates the advisory Guidelines range and, after hearing from the parties, considers the 18 U.S.C. § 3553(a) factors to determine an appropriate sentence. 552 U.S. at 49-50; United States v. Ruvalcava-Perez, 561 F.3d 883, 886 (8th Cir. 2009) (“In sentencing a defendant, the district court should first determine the appropriate Guidelines range, then evaluate whether a traditional departure is warranted, and finally decide whether or not to impose a guideline sentence after considering all the § 3553(a) sentencing factors”).

The district court may not assume that the Guidelines range is reasonable, but instead “must make an individualized assessment based on the facts presented.” Id. at 50. If the court determines that a sentence outside of the Guidelines is called for, it “must consider the extent of the deviation and ensure that the justification is sufficiently compelling to support the degree of the variance.” Id. Section 3553(a) requires the Court to analyze a number of factors, including, “the nature and circumstances of the offense,” “the history and characteristics of the defendant,” “the need for the sentence to reflect the seriousness of the offense,” “the need for deterrence,” “the need to protect the

public from further crimes of the defendant,” and “the need to avoid unwarranted disparities.” 18 U.S.C. § 3553(a).

Defendant had an ongoing relationship with his co-defendant, Jimmy Barker. This relationship culminated in Defendant assisting Barker in distributing 124.3 grams of cocaine base on April 4, 2012, in exchange for \$3,400. In doing so, Defendant permitted the use of his vehicle to make the delivery and he was the person who carried the narcotics into the community college where the transaction took place. Thus, Defendant was an integral part of a significant narcotics transaction and the sentence should reflect his involvement.

A sentence within the middle of the Guidelines range is also warranted because this is not Defendant’s first drug offense. In 2008, he was sentenced for sale of cocaine as a result of selling cocaine to an undercover police officer as well as possessing additional cocaine in his vehicle. See ¶ 37. Defendant also has pending fifth degree drug possession charges in Hennepin County after law enforcement located cocaine base in his vehicle on March 8, 2012. See ¶ 49. Thus, his history and characteristics warrant a sentence in the middle of the Guidelines range.

Notably, Defendant was not deterred by his pending charge in Hennepin County, and instead chose to assist Barker with his narcotics delivery in April 2012. For some individuals pending charges would at least temporarily deter them from continuing their criminal behavior. However, that did not work in the case of Defendant. Thus, a

significant sentence is necessary to deter future conduct by Defendant and to protect the public.

Dated: July 25, 2013

Respectfully Submitted,

B. TODD JONES
United States Attorney

s/LeeAnn K. Bell
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