

The Honorable John C. Coughenour

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

JUSTIN GARRETT HARRISON,

Defendant.

NO. CR17-120 JCC

**GOVERNMENT'S SENTENCING
MEMORANDUM**

Sentencing: 2/28/18 at 9:00 a.m.

Justin Garrett Harrison comes before the Court for sentencing after pleading guilty to Counts 1, 2, and 3 of the Indictment: *Felon in Possession of a Firearm*, in violation of Title 18 United States Code, Section 922(g)(1); *Possession with Intent to Distribute Heroin*, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C), and *Possession of a Firearm in Furtherance of a Drug Trafficking Crime*, in violation of Title 18, United States Code, Section 924(c)(1)(A). The United States of America, by and through Annette L. Hayes, United States Attorney for the Western District of Washington, and Jessica M. Manca, Special Assistant United States Attorney for said District, respectfully asks this Court to impose 84 months of imprisonment followed by five (5) years of supervised release.

1 The facts of this case are egregious, not only because of the amount of drugs that
 2 Harrison possessed, but also because of *where* he possessed and sold those drugs.
 3 Harrison was using his 85-year-old grandmother's Belltown condominium (and a
 4 downtown Seattle hotel room) to funnel significant amounts of methamphetamine and
 5 heroin directly into the downtown corridor. He took advantage of his grandmother. He
 6 affected his neighbors' quality of life and made them feel unsafe. He preyed on drug-
 7 addicted people in an urban environment where homelessness, poverty, and mental health
 8 issues are everywhere.

9 On balance, an 84-month sentence appropriately reflects the aggravating aspects
 10 of this case while also recognizing the Court's obligation to impose a sentence that is
 11 sufficient, but not greater than necessary, to fulfill the purposes of sentencing.

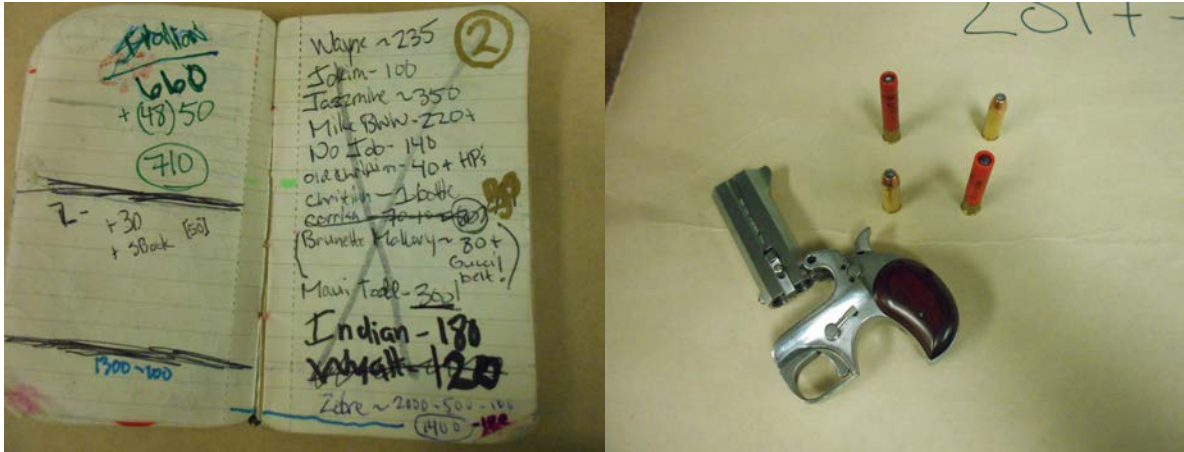
12 I. FACTUAL SUMMARY

13 In late January 2017, an undercover agent texted Harrison (at that time, known
 14 only by the street name "JNut") and arranged to buy two ounces of heroin for \$2500.
 15 PSR ¶ 6; Ex. 1.¹ In the middle of their conversation, Harrison told the undercover agent
 16 to download "Signal," a secure text messaging application. Ex. 1. When the deal was
 17 arranged, Harrison sent a third-party "runner" to deliver the heroin. When Harrison did
 18 not hear from the runner, he tried to delete his text message exchange with the
 19 undercover agent. The agent was able to photograph and preserve the text messages
 20 before Harrison deleted them. *Id.*

21 Investigators were able to identify "JNut" as Justin Harrison, in part because
 22 Seattle Police Department officers had received numerous complaints about the high
 23 volume of foot traffic coming and going from Harrison's residence in a Belltown
 24 condominium complex. The condominium unit was owned by Harrison's grandmother,
 25 with whom Harrison lived. PSR ¶ 7.

27 ¹ Exhibit 1 contains relevant excerpts of a longer text messaging conversation between Harrison and the undercover
 28 agent.

Later that evening, Harrison was arrested in the lobby of his grandmother's condominium complex when he returned from another drug deal. PSR ¶¶ 8-9. During a search of Harrison and his backpack, officers found a loaded handgun, additional rounds of ammunition, three cell phones, a drug ledger, and significant amounts of methamphetamine, heroin, and prescription pills. PSR ¶¶ 9-10.



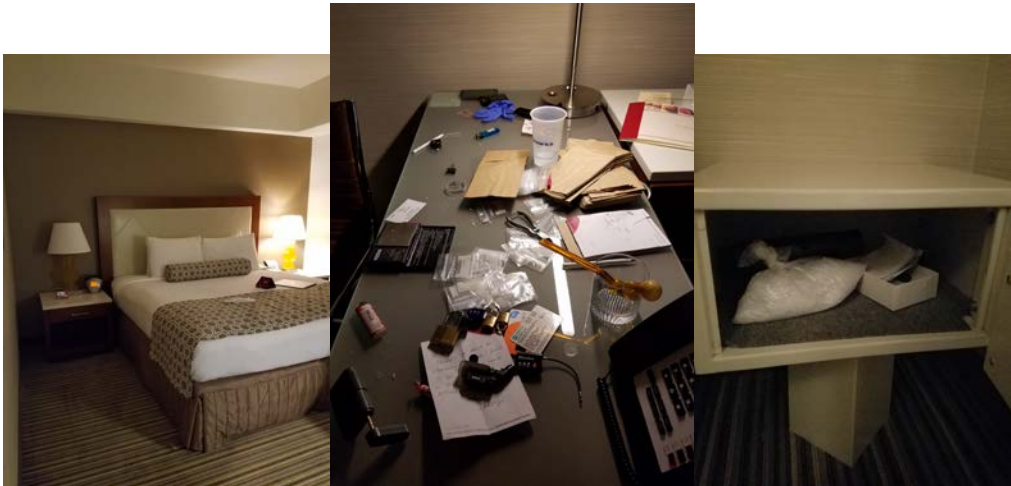
Harrison and his grandmother consented to a search of their condominium unit. PSR ¶ 11. In Harrison's cluttered bedroom, agents found more methamphetamine, a digital scale, and a narcotics packaging area with a surveillance video feed:



1 Like Harrison's bedroom, the common areas of the condominium unit were dirty
2 and cluttered:



15
16 Harrison also told agents that that he stored about a pound of methamphetamine in
17 a downtown Seattle hotel room. The agents recovered approximately 379 grams of
18 methamphetamine from the hotel room safe. PSR ¶ 13.



II. STATUTORY PENALTIES

The maximum penalty for *Felon in Possession of a Firearm* (Count 1) is 10 years of imprisonment, up to three (3) years of supervised release, a \$250,000 fine, and a mandatory \$100 special assessment. The maximum penalty for *Possession of Heroin and Methamphetamine with Intent to Distribute* (Count 2) is 20 years of imprisonment, at least three (3) years of supervised release, a \$1,000,000 fine, and a mandatory \$100 special assessment. PSR ¶¶ 68, 72, 77-78.

The mandatory minimum penalty for *Possession of a Firearm in Furtherance of a Drug Trafficking Offense* (Count 3) is five (5) years of imprisonment, consecutive to all other counts. The maximum penalty is Life imprisonment, five (5) years of supervised release, a \$250,000 fine, and a mandatory \$100 special assessment. PSR ¶¶ 68-69, 72, 77-78.

III. SENTENCING GUIDELINE RANGE

The United States submits that, as to Count 2 only, Harrison's total offense level is 27 (after acceptance of responsibility). PSR ¶¶ 20-28; *see also* USSG § 2D1.1(b)(12).² The government also agrees that Harrison has nine (9) criminal history points, which places him in Criminal History Category IV and results in a sentencing guideline range of 100-125 months imprisonment as to Count 2. PSR ¶¶ 44, 70. Harrison's total sentencing guideline range is 100-125 months for Count 2, consecutive to a mandatory 60 months for Count 3, resulting in a total guideline range of 160 to 185 months. PSR ¶¶ 69-70.

//

//

² The PSR calculates a sentencing guideline range of 100-125 months based on a total offense level of 27, but does not identify USSG § 2D1.1(b)(12) (maintaining a premises for the purpose of distributing a controlled substance) as the basis for a two (2)-level enhancement. *See* PSR ¶¶ 20-28, 70. In their Plea Agreement, the parties agreed that this enhancement applied. (Dkt. 22 at ¶ 9.)

The government concedes that it failed to timely identify and object to this discrepancy in the PSR. If the Court determines that this (2)-level enhancement does not apply, then Harrison's total offense level would be 25 and his sentencing guideline range would be 84-105 months, as to Count 2 only.

1 **IV. THE UNITED STATES SENTENCING RECOMMENDATION**

2 **A. Nature and Circumstances of the Offense.**

3 Harrison possessed a large amount of various drugs, in multiple locations, and he
 4 used sophisticated tactics while negotiating a \$2500 drug deal with an undercover agent.
 5 Taken together, this information strongly suggests that Harrison was a significant drug
 6 supplier in downtown Seattle.

7 The United States is particularly troubled by Harrison’s suggestion that his
 8 criminal behavior was brought on, or is somehow mitigated, by the obligation of caring
 9 for his wealthy, elderly grandmother. Harrison has been mostly unemployed for the past
 10 10 years. PSR ¶ 65. During that time, he lived with his grandmother in her house on
 11 Queen Anne, and later in her condominium in Belltown—presumably rent free. PSR ¶
 12 53, 67. His grandmother had in-home care while he lived with her. PSR ¶ 53.

13 Harrison’s assertion that he drank throughout the day (instead of working) and
 14 then took methamphetamine at night so that he could stay up to care for his grandmother
 15 (while high) is aggravating, not mitigating. PSR ¶ 61. He clearly took advantage of his
 16 grandmother. An agent who searched the condominium unit described its condition as
 17 “squalid.” Harrison used his grandmother’s home as a place to drink, get high, deal drugs,
 18 and store the proceeds of his illicit activities when he was supposed to be caring for her.
 19 In this case, Harrison was arrested at 7:30 pm, in the lobby of his grandmother’s
 20 apartment, after returning from a drug deal. It is unlikely that January 27th was the only
 21 evening that Harrison’s grandmother was alone in her apartment while he was out dealing
 22 drugs. Harrison’s prolific drug operation diminished her quality of life—and that of her
 23 neighbors—and it placed all of them at risk.

24 //

25 //

26 //

27 //

B. History and Characteristics of the Defendant.

Although Harrison has only one adult felony conviction (assault with a deadly weapon), his criminal history is more concerning than it might initially appear. In addition to his felony assault conviction, which involved threatening a taxi cab driver with a knife, he has two prior convictions for harassment. PSR ¶¶ 36, 38. Harrison also has four prior convictions for violating domestic-violence no-contact orders. *From jail—* where he was serving a sentence for violating a no-contact order—Harrison violated the no-contact order by sending letters to the protected party, one of which stated, “I get out sooner than you can imagine....” PSR ¶ 41.

Harrison’s history of refusing to comply with court orders of all kinds—no-contact orders, orders requiring domestic violence treatment, and orders prohibiting the possession of firearms—is an aggravating factor that bears on his risk of recidivism. His history of non-compliance requires the Court to impose a sentence that promotes respect for the law and provides a deterrent effect.

C. Government’s Recommendation: 84 Months.

A sentence of 84 months imprisonment followed by five (5) years of supervised release is the appropriate sentence in this case. As discussed in greater detail above, there are uniquely aggravating factors for the Court to consider at sentencing. These factors include the amount of drugs that Harrison was distributing and the context in which he was distributing them. The government also recognizes that there are potentially mitigating factors that the Court will consider, including Harrison’s cooperation with law enforcement during his arrest, his difficult childhood, his mental health and substance abuse issues, and the length and age of his prior sentences.

Although the government is recommending a substantial prison sentence, this recommendation is still below the sentencing guideline range for Count 2 alone and significantly below the sentencing guideline range for Count 2 and 3 combined. On balance, an 84-month sentence is both appropriate and necessary to reflect the serious

1 nature and circumstances of this offense and the other factors required by 18 U.S.C. §
2 3553(a).

3 **VII. CONCLUSION**

4 For the foregoing reasons, the government asks the Court to impose a sentence of
5 84 months imprisonment, followed by five (5) years of supervised release.

6
7 DATED this 20th day of February, 2018.

8
9 Respectfully submitted,

10 ANNETTE L. HAYES
11 United States Attorney

12 /s/ Jessica M. Manca

13 JESSICA M. MANCA
14 Special Assistant United States Attorney
15 United States Attorney's Office
16 700 Stewart, Suite 5220
17 Seattle, Washington 98101
18 Phone: (206) 553-5041
19 Fax: (206) 553-0755
20 E-mail: Jessica.Manca@usdoj.gov
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I hereby certify that on February 20, 2018, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the attorney(s) of record for the defendant(s).

/s/ Becky Hatch

BECKY HATCH

Legal Assistant

United States Attorney's Office

700 Stewart, Suite 5220

Seattle, Washington 98101

Phone: (206) 553-4161

Fax: (206) 553-0755

E-mail: Becky.Hatch@usdoj.gov