

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No.: 1:09–CR–14

v.

Hon. Gordon J. Quist
United States District Judge

SHANE DAVID CRAMPTON,

Defendant.

DEFENDANT’S SENTENCING MEMORANDUM

On Wednesday, February 10, 2010, Shane Crampton will appear before this Honorable Court for the sentence to be imposed regarding his conviction by his guilty plea of the offense of Wire Fraud. A final Presentence Investigation Report (hereinafter referred to as “PSIR”) has been completed and circulated to the parties. There are no outstanding objections to the PSIR by either party. There are no requests for departures under the guidelines or variances therefrom. The recommended sentence is for a two-year period of probation, a fine of \$2,079.99, and no custodial period to be imposed. The Defendant concurs with this recommendation and asks the Court to impose the recommended sentence.

Discussion

In compliance with *U.S. v. Booker*, 543 U.S. 220 (2005), as clarified by *Gall v. U.S.*, 552 U.S. 38 (2007), and *Kimbrough v. U.S.*, 552 U.S. 85 (2007), this Court is directed to consider a number of factors in determining a defendant’s sentence. After correctly calculating a defendant’s advisory sentence guideline range, the Court is to listen to arguments by the parties as to the appropriate sentence to be imposed. The Court is to look to the sentencing statute 18 U.S.C. §

3553(a) to find support for the sentences advocated by the parties. Based upon due consideration of the advisory range, the positions of the parties, and the § 3553(a) factors, the Court is to impose a sentence that is sufficient, but not greater than necessary, to achieve the purposes of sentencing. Should the Court choose to impose a sentence outside of the advisory guideline range, the Court is to explain the departure or variance to such an extent that the defendant and any reviewing Court may understand the basis for the Court's chosen sentence.

18 U.S.C. § 3553(a) Factors

In this case, the Defendant received \$1,000.00 by wire transfer from a boxing promoter involved with bringing fight cards to the Little River Casino in Manistee, Michigan. At the time, the Defendant was the chairman of the tribe's Boxing Commission. Mr. Crampton touted his position to the promoter as being able to control the granting or denial of fight promotion opportunities. The promoter paid the money to the defendant believing it would assist the promoter with obtaining those promotional opportunities. (PSIR, Paragraphs 11 and 13.)

Shane Crampton is a 39 year-old member of the Little River Band of Ottawa Indians. He has accepted responsibility for his wrongful conduct explaining that he committed this crime due to financial difficulties. He is embarrassed and ashamed of himself. He knows that he caused harm to his tribe and has also been responsible for the loss of his dream of bringing respected fight promotions at the Casino, and the loss of a potential tribal athletic department, which would have been good for his tribe. (PSIR, Paragraphs 24 - 26.)

His criminal history is mostly minor in nature. He has two ten-year-old driving while license suspended convictions. A more recent Domestic Violence conviction seems situationally related to some jealousy on the Defendant's part. Regardless of this unfortunate occurrence, Mr. Crampton's

ex-wife speaks highly of him as a father and expressed surprise at his involvement in this crime. (PSIR, Paragraph 55.)

Mr. Crampton is healthy in mind and spirit. (PSIR, Paragraph 57, 59.) He has earned a GED. (PSIR, Paragraph 62.) He has some college experience. (PSIR, Paragraph 63.) He has a good work record spending the last ten years in the same employment. (PSIR, Paragraph 65.)

Although punishment is a necessary consideration in every violation of the law, it would appear that rehabilitation should be the greater emphasis in the sentencing in this case. The Defendant has been punished in several ways already. He has suffered the embarrassment of this criminal conduct's exposure to his family, friends, and tribe. He has lost his employment and a respectable position within the tribal structure. He has lost his dream of doing potentially good works and achieving accomplishment for his tribe.

As to deterrence, this Defendant is unlikely to ever be in a position to re-offend in the manner that this crime was committed. He has learned a respect for the law in that he knows the very serious nature of his actions and the very serious punishment that the federal law can mete out for such behavior. The public is not in danger from Shane Crampton at this time.

The recommended period of probation here is of sufficient length to justly punish Shane Crampton without being greater than necessary. It is a period of time in which Shane Crampton will be able to demonstrate his contrition and his ability to conform his conduct to society's standards.

Given the advisory guideline range and statutory options, the full panoply of potential sentences is available to the Court. The sentence that has been recommended here conforms to those options, and is consistent with "parsimony principle" expressed in the sentencing statute.

Conclusion

Shane Crampton respectfully requests that this Honorable Court sentence him justly but with mercy. He thanks the Court for its careful consideration of this case and his individualized situation and circumstances.

Respectfully submitted,

RAY KENT
Federal Public Defender

Dated: February 3, 2010

/s/ RICHARD D. STROBA
Assistant Federal Public Defender

Dated: February 3, 2010

/s/ DAVID L. KACZOR
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