

DEFENDANT: Kevin Amell
CASE NUMBER: 1:17cr10101-IT
DISTRICT: Massachusetts

STATEMENT OF REASONS

Sections I, II, III, IV, and VII of the Statement of Reasons form must be completed in all felony and Class A misdemeanor cases.

I. COURT FINDINGS ON PRESENTENCE INVESTIGATION REPORT

- A. [X] The court adopts the presentence investigation report without change.
B. [ ] The court adopts the presentence investigation report with the following changes:
1. [ ] Chapter Two of the United States Sentencing Commission Guidelines Manual determinations by court:
2. [ ] Chapter Three of the United States Sentencing Commission Guidelines Manual determinations by court:
3. [ ] Chapter Four of the United States Sentencing Commission Guidelines Manual determinations by court:
4. [ ] Additional Comments or Findings:
C. [ ] The record establishes no need for a presentence investigation report pursuant to Fed.R.Crim.P. 32.

II. COURT FINDINGS ON MANDATORY MINIMUM SENTENCE (Check all that apply)

- A. [ ] One or more counts of conviction carry a mandatory minimum term of imprisonment and the sentence imposed is at or above the applicable mandatory minimum term.
B. [ ] One or more counts of conviction carry a mandatory minimum term of imprisonment, but the sentence imposed is below the mandatory minimum term because the court has determined that the mandatory minimum term does not apply based on:
C. [X] No count of conviction carries a mandatory minimum sentence.

III. COURT DETERMINATION OF GUIDELINE RANGE: (BEFORE DEPARTURES OR VARIANCES)

Total Offense Level: 24
Criminal History Category: I
Guideline Range: (after application of §5G1.1 and §5G1.2) 51 to 63 months
Supervised Release Range: 1 to 3 years
Fine Range: \$ 20,000 to \$ 5,000,000

[X] Fine waived or below the guideline range because of inability to pay.

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**IV. GUIDELINE SENTENCING DETERMINATION** *(Check all that apply)*

- A.  The sentence is within the guideline range and the difference between the maximum and minimum of the guideline range does not exceed 24 months.
- B.  The sentence is within the guideline range and the difference between the maximum and minimum of the guideline range exceeds 24 months, and the specific sentence is imposed for these reasons: *(Use Section VIII if necessary)*
- C.  The court departs from the guideline range for one or more reasons provided in the Guidelines Manual.  
*(Also complete Section V)*
- D.  The court imposed a sentence otherwise outside the sentencing guideline system (*i.e.*, a variance). *(Also complete Section VI)*

**V. DEPARTURES PURSUANT TO THE GUIDELINES MANUAL** *(If applicable)*

- A. **The sentence imposed departs:** *(Check only one)*
  - above the guideline range
  - below the guideline range
- B. **Motion for departure before the court pursuant to:** *(Check all that apply and specify reason(s) in sections C and D)*

1. **Plea Agreement**

- binding plea agreement for departure accepted by the court
- plea agreement for departure, which the court finds to be reasonable
- plea agreement that states that the government will not oppose a defense departure motion

2. **Motion Not Addressed in a Plea Agreement**

- government motion for departure
- defense motion for departure to which the government did not object
- defense motion for departure to which the government objected
- joint motion by both parties

3. **Other**

- Other than a plea agreement or motion by the parties for departure

C. **Reasons for departure:** *(Check all that apply)*

- |   |  |  |
|---|--|--|
| <input type="checkbox"/> 4A1.3 Criminal History Inadequacy          | <input type="checkbox"/> 5K2.1 Death                             | <input type="checkbox"/> 5K2.12 Coercion and Duress                |
| <input type="checkbox"/> 5H1.1 Age                                  | <input type="checkbox"/> 5K2.2 Physical Injury                   | <input type="checkbox"/> 5K2.13 Diminished Capacity                |
| <input type="checkbox"/> 5H1.2 Education and Vocational Skills      | <input type="checkbox"/> 5K2.3 Extreme Psychological Injury      | <input type="checkbox"/> 5K2.14 Public Welfare                     |
| <input type="checkbox"/> 5H1.3 Mental and Emotional Condition       | <input type="checkbox"/> 5K2.4 Abduction or Unlawful Restraint   | <input type="checkbox"/> 5K2.16 Voluntary Disclosure of Offense    |
| <input type="checkbox"/> 5H1.4 Physical Condition                   | <input type="checkbox"/> 5K2.5 Property Damage or Loss           | <input type="checkbox"/> 5K2.17 High-Capacity Semiautomatic Weapon |
| <input type="checkbox"/> 5H1.5 Employment Record                    | <input type="checkbox"/> 5K2.6 Weapon                            | <input type="checkbox"/> 5K2.18 Violent Street Gang                |
| <input type="checkbox"/> 5H1.6 Family Ties and Responsibilities     | <input type="checkbox"/> 5K2.7 Disruption of Government Function | <input type="checkbox"/> 5K2.20 Aberrant Behavior                  |
| <input type="checkbox"/> 5H1.11 Military Service                    | <input type="checkbox"/> 5K2.8 Extreme Conduct                   | <input type="checkbox"/> 5K2.21 Dismissed and Uncharged Conduct    |
| <input type="checkbox"/> 5H1.11 Charitable Service/Good Works       | <input type="checkbox"/> 5K2.9 Criminal Purpose                  | <input type="checkbox"/> 5K2.22 Sex Offender Characteristics       |
| <input type="checkbox"/> 5K1.1 Substantial Assistance               | <input type="checkbox"/> 5K2.10 Victim's Conduct                 | <input type="checkbox"/> 5K2.23 Discharged Terms of Imprisonment   |
| <input type="checkbox"/> 5K2.0 Aggravating/Mitigating Circumstances | <input type="checkbox"/> 5K2.11 Lesser Harm                      | <input type="checkbox"/> 5K2.24 Unauthorized Insignia              |
|   |  | <input type="checkbox"/> 5K3.1 Early Disposition Program (EDP)     |

- Other Guideline Reason(s) for Departure, to include departures pursuant to the commentary in the Guidelines Manual: *(see "List of Departure Provisions" following the Index in the Guidelines Manual.) (Please specify)*

D. **State the basis for the departure.** *(Use Section VIII if necessary)*

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VI. COURT DETERMINATION FOR A VARIANCE (If applicable)

A. The sentence imposed is: (Check only one)

- above the guideline range
below the guideline range

B. Motion for a variance before the court pursuant to: (Check all that apply and specify reason(s) in sections C and D)

1. Plea Agreement

- binding plea agreement for a variance accepted by the court
plea agreement for a variance, which the court finds to be reasonable
plea agreement that states that the government will not oppose a defense motion for a variance

2. Motion Not Addressed in a Plea Agreement

- government motion for a variance
defense motion for a variance to which the government did not object
defense motion for a variance to which the government objected
joint motion by both parties

3. Other

- Other than a plea agreement or motion by the parties for a variance

C. 18 U.S.C. § 3553(a) and other reason(s) for a variance (Check all that apply)

- The nature and circumstances of the offense pursuant to 18 U.S.C. § 3553(a)(1):
Mens Rea
Role in the Offense
General Aggravating or Mitigating Factors: (Specify)
Extreme Conduct
Dismissed/Uncharged Conduct
Victim Impact

The history and characteristics of the defendant pursuant to 18 U.S.C. § 3553(a)(1):

- Aberrant Behavior
Age
Charitable Service/Good Works
Community Ties
Diminished Capacity
Drug or Alcohol Dependence
Employment Record
Family Ties and Responsibilities
Lack of Youthful Guidance
Mental and Emotional Condition
Military Service
Non-Violent Offender
Physical Condition
Pre-sentence Rehabilitation
Remorse/Lack of Remorse
Other: (Specify)

To reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense (18 U.S.C. § 3553(a)(2)(A))

- To afford adequate deterrence to criminal conduct (18 U.S.C. § 3553(a)(2)(B))
To protect the public from further crimes of the defendant (18 U.S.C. § 3553(a)(2)(C))
To provide the defendant with needed educational or vocational training (18 U.S.C. § 3553(a)(2)(D))
To provide the defendant with medical care (18 U.S.C. § 3553(a)(2)(D))
To provide the defendant with other correctional treatment in the most effective manner (18 U.S.C. § 3553(a)(2)(D))
To avoid unwarranted sentencing disparities among defendants (18 U.S.C. § 3553(a)(6)) (Specify in section D)
To provide restitution to any victims of the offense (18 U.S.C. § 3553(a)(7))
Acceptance of Responsibility
Conduct Pre-trial/On Bond
Cooperation Without Government Motion for Departure
Early Plea Agreement
Global Plea Agreement
Time Served (not counted in sentence)
Waiver of Indictment
Waiver of Appeal
Policy Disagreement with the Guidelines (Kimbrough v. U.S., 552 U.S. 85 (2007): (Specify)

Other: (Specify)

D. State the basis for a variance. (Use Section VIII if necessary)

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VII. COURT DETERMINATIONS OF RESTITUTION

A. [ ] Restitution not applicable.

B. Total amount of restitution: \$ 1,535,353.00

C. Restitution not ordered: (Check only one)

- 1. [ ] For offenses for which restitution is otherwise mandatory under 18 U.S.C. § 3663A, restitution is not ordered because the number of identifiable victims is so large as to make restitution impracticable under 18 U.S.C. § 3663A(c)(3)(A).
2. [ ] For offenses for which restitution is otherwise mandatory under 18 U.S.C. § 3663A, restitution is not ordered because determining complex issues of fact and relating them to the cause or amount of the victims' losses would complicate or prolong the sentencing process to a degree that the need to provide restitution to any victim would be outweighed by the burden on the sentencing process under 18 U.S.C. § 3663A(c)(3)(B).
3. [ ] For other offenses for which restitution is authorized under 18 U.S.C. § 3663 and/or required by the sentencing guidelines, restitution is not ordered because the complication and prolongation of the sentencing process resulting from the fashioning of a restitution order outweigh the need to provide restitution to any victims under 18 U.S.C. § 3663(a)(1)(B)(ii).
4. [ ] For offenses for which restitution is otherwise mandatory under 18 U.S.C. §§ 1593, 2248, 2259, 2264, 2327 or 3663A, restitution is not ordered because the victim(s)' losses were not ascertainable (18 U.S.C. § 3664(d)(5)).
5. [ ] For offenses for which restitution is otherwise mandatory under 18 U.S.C. §§ 1593, 2248, 2259, 2264, 2327 or 3663A, restitution is not ordered because the victim(s) elected to not participate in any phase of determining the restitution order (18 U.S.C. § 3664(g)(1)).
6. [ ] Restitution is not ordered for other reasons: (Explain)

D. [ ] Partial restitution is ordered for these reasons: (18 U.S.C. § 3553(c))

VIII. ADDITIONAL BASIS FOR THE SENTENCE IN THIS CASE (If applicable)

Defendant's Soc. Sec. No.: 000-00-8941

Date of Imposition of Judgment: 08/16/2017

Defendant's Date of Birth: 1972

Indira Talwani
Signature of Judge

Defendant's Residence Address: Hingham MA

Indira Talwani, United States District Judge
Name and Title of Judge

Defendant's Mailing Address: Hingham MA

Date: 8/22/2017