

FEDERAL DEFENDER SERVICES  
OF WISCONSIN, INC.

LEGAL COUNSEL

Craig W. Albee, Federal Defender  
Krista A. Halla-Valdes, First Assistant

Joseph A. Bugni, Madison Supervisor  
John W. Campion  
Shelley M. Fite  
Anderson M. Gansner  
Gabriela A. Leija  
Peter R. Moyers  
Ronnie V. Murray  
Tom E. Phillip  
Joshua D. Uller  
Kelly A. Welsh

22 East Mifflin Street  
Suite 1000  
Madison, Wisconsin 53703

Telephone 608-260-9900  
Facsimile 608-260-9901

January 22, 2021

Hon. William M. Conley  
United States District Judge  
120 North Henry Street  
Madison, Wisconsin 53703

Re: *United States v. Ahmad Kanan*,  
Case Nos. 19-cr-147-wmc & 20-cr-53-wmc

Dear Judge Conley:

I write to preview the defense's position for Kanan's sentencing hearing. Except as modified below, the analysis in the defense's sentencing memorandum speaks for itself and the defense won't repeat it here. (*See* DE 87 & 81, respectively.) Kanan merits a sentence of at least 30 months but no greater than 37 months. Here's why.

**Guidelines Objections**

Kanan maintains three objections to the guidelines range calculated in the presentence report. First, the defense and the government agree that his offense level should be reduced by three for acceptance of responsibility. He has admitted to his crimes, adopting the government's factual basis at his plea hearing.

Second, a two-level increase under USSG §3C1.1 for attempted obstruction is inapplicable because Kanan didn't intend to destroy any evidence. To be sure, he doesn't get the benefit of the doubt when his conduct raises eyebrows. Nevertheless, he has degrees in computer science, and he well knows that data, like diamonds, are forever.

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Third, a two-level increase under USSG §2B1.1(b)(9)(C) for violating a judicial order doesn't apply either. The provision's text and the commentary suggest it applies to orders from related civil or administrative proceedings – not pretrial release.

Therefore, Kanan's total adjusted offense level is 16. With a criminal history category of II, his advisory guidelines range is 24 to 30 months' imprisonment. The 30-month high-end is sufficient but not greater than necessary to achieve sentencing's goals.

**Section 3553(a) Factors**

The Court can stop reading if it agrees with the guidelines analysis. If it doesn't, then, under the § 3553(a) factors, it should apply a "constructive" offense level of 18. Kanan's plea saved the venire, the witnesses, the Court, and the government a long trial's burdens under COVID-19 protocols. He didn't go to trial, and he shouldn't be sentenced as if he did. Nor should Kanan be sentenced as if he obstructed both cases and violated judicial orders in both bases. An offense level 18 distinguishes him from an offender who went to trial, obstructed both cases, and violated judicial orders in both cases.

Treating Kanan as an 18/II accounts for these distinctions and results in a range of 30 to 37 months. A 37-month sentence also fits within the guidelines range that the government propounds—a 20/II yields a range 37 to 46 months' imprisonment. Therefore, if Kanan's guidelines objections do not persuade the Court, then a 37-month term is sufficient but not greater than necessary to achieve sentencing's goals.

Sincerely,

*Peter R. Moyers*

Peter R. Moyers  
Associate Federal Defender