

**IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA, §
Plaintiff §
V. § **NO: 20-CR-100-CVE**
§
TEOSHA ETUK, §
Defendant §

DEFENDANT’S SENTENCING MEMORANDUM

Defendant Teosha Etuk (“Defendant”), in accordance with 18 U.S.C. § 3553(a), moves this Court to grant the 5-level downward variance that is jointly requested in the Joint Motion for Downward Variance (Dkt #128) and requests that this Court consider the following information in considering whether to grant that Joint Motion and in fashioning a fair and just sentence for the Defendant. Defendant incorporates by reference, as if fully set forth herein, the Joint Motion for Downward Variance (Dkt #128) (hereinafter “Joint Motion”).

I.

PRESENTENCE INVESTIGATION REPORT

Supervising United States Probation Officer Sean Dooley issued a Presentence Investigation Report (“PSR”) on June 6, 2021. Defendant has been provided a copy of that PSR and the undersigned counsel has thoroughly discussed its contents with Defendant. Defendant did not have any objections to the PSR.

II.

APPLICATION OF SECTION 3553(A) TO SENTENCE DETERMINATION

When crafting a sentence, and in the instant matter determining whether to grant the Joint Motion, the Court is guided by the “parsimony principle” -- that the sentence be “sufficient, but not greater than necessary to comply with the purposes” of criminal punishment expressed in §

3553(a). *United States v. Martinez-Barragan*, 545 F.3d 894, 904 (10th Cir. 2008). If fashioning an appropriate sentence, there are no limitations on the information the Court may consider regarding the Defendant's background, character and conduct. 18 U.S.C. § 3661. The "common thread" in applying the "tapestry" of sentencing factors is the parsimony principle. *United States v. Rodriguez*, 527 F.3d 221, 228 (1st Cir. 2008).

III.

SECTION 3553(a) FACTORS FOR THE COURT TO CONSIDER

The objective of the Sentencing Reform Act of 1984 was to "enhance the ability of the criminal justice system to combat crime through an effective, fair sentencing system. To achieve an effective and fair system, Congress sought the following" 1) honesty in sentencing; 2) to avoid disparity in sentences by establishing reasonable uniformity in sentencing; and 3) proportionality in sentencing.

In the instant case, and for the following reasons, a fair sentence would be for this Court to grant the Joint Motion and fashion a sentence for the Defendant of no more than 12 months on Count 5.

A.

Lack of Any Criminal History Weighs in Favor of Granting the Joint Motion and Applying the 5-Level Downward Variance.

Defendant is a first-time offender. The conduct of Defendant in this criminal case is aberrant and warrants consideration by this Court of the agreed 5-level variance as requested in the Joint Motion. Before this case, Defendant had no negative contacts with law enforcement. Defendant has no history of violence, and this offense conduct does not involve violence or threats of violence. Defendant has no issues with abuse of controlled substances or alcohol.

Defendant's lack of criminal history significantly reduces the risk of Defendant reoffending or otherwise threatening public safety. Defendant does not pose a threat to the public and would be justly punished, sufficiently deterred, and adequately rehabilitated by a sentence of not more than 12 months which would involve this Court granting the Joint Motion for Downward Variance of 5-levels to the USSG range of 12-18 months.

B.

FAMILY STATUS

Defendant is a mother of three children, all under the ages of 5 years. Defendant is married to Ibanga Etuk. In the instant case, Defendant's husband is also a co-defendant in this case and has agreed to being deported serving his period of incarceration. Since both parents will be incarcerated at the same time, Defendant will have to find a family member to care for her children. Any period of incarceration will have an extraordinary adverse effect on her three minor children. Defendant understands that her own actions have put her in this situation, but she pleads with this Court to provide her the opportunity to discharge from custody as soon as possible and continue to provide the necessary support and care to her minor children. A sentence of no more than 12 months on Count 5 will more than adequately punish Defendant. Defendant would respectfully ask the Court to consider a split sentencing for her in which she could serve half of her time in prison and the other half on home confinement. For the sake of her family, and especially her children, Defendant seeks compassion from this Court.

Based on the foregoing, Defendant respectfully ask the Court to grant the Motion for Downward Variance and sentence the Defendant to no more than 12 months.

/s/ Heather M. Fisher
Heather M. Fisher
Law Offices of Heather M. Fisher
SBN 24048464

1413 E. McKinney St.
Denton, TX 76209
214-364-9676 phone
940-228-1297 fax
heather@mydentonlawyer.com
Attorney for Defendant

CERTIFICATE OF SERVICE

This is to certify that on July 13, 2021, this document was filed with the Clerk using the ECF filing system which will cause a copy of this document to be delivered to the Counsel for the Government via electronic mail.

/s/Heather M. Fisher
Heather M. Fisher