

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
At Chattanooga**

UNITED STATES OF AMERICA,

Plaintiff,

v.

No. 1:03-CR-68-5

Judge Collier

DEMETRUS COONROD,

Defendant.

**SENTENCING MEMORANDUM AND
REQUEST FOR NON-GUIDELINES SENTENCE**

Defendant Demetrus Coonrod, through undersigned counsel, hereby submits the following information for this Honorable Court's consideration at her February 24, 2011 hearing on the Petition of Violation of Supervised Release. Ms. Coonrod respectfully suggests to this Court that based on the following information, a non-guidelines sentence lower than that reflected in the Disposition Report would be a sentence which is sufficient but not greater than necessary to meet the requirements of 18 U.S.C. § 3553(a).

Ms. Coonrod's disposition report calculates an imprisonment range of 7 to 13 months under U.S.S.G. § 7B1.4, based on her commission of Grade C violations and a criminal history category of V. However, also according to the disposition report, because Ms. Coonrod received a downward departure of 21 months on her original sentence of imprisonment and had a balance of fourteen days remaining to be served prior to her discharge from the Salvation Army Halfway House, Ms. Coonrod's effective guideline range is twenty-four months. Ms. Coonrod submits that a lower, non-guideline sentence that contemplates alternatives to prolonged incarceration can adequately address the requirements of 18 U.S.C. § 3553.

The Guidelines

Ms. Coonrod has been assessed as committing Grade C violations. As the disposition report in this case states, under U.S.S.G. § 7B1.3(a)(2), the court may (a) revoke probation or supervised release; or (B) extend the term of probation or supervised release and/or modify the conditions of supervision.

In the case of a Grade B or C violation –

- (1) Where the minimum term of imprisonment determined under § 7B1.4 (Term of Imprisonment) is at least one month but not more than six months, the minimum term may be satisfied by (A) a sentence of imprisonment; or (B) a sentence of imprisonment that includes a term of supervised release with a condition that substitutes community confinement or home detention according to the schedule in §5C1.1(e) for any portion of the minimum term; and
- (2) Where the minimum term of imprisonment determined under §7B1.4 (Term of imprisonment) is more than six months but not more than ten months, the minimum term may be satisfied by (A) a sentence of imprisonment; or (B) a sentence of imprisonment that includes a term of supervised release with a condition that substitutes community confinement or home detention according to the schedule in §5C1.1(e), provided that at least one-half of the minimum term is satisfied by imprisonment.

U.S.S.G. §7B1.3 (c)(1)-(2).

Section 3583(e) of Title 18, United States Code

Section 3583(e) of Title 18, United States Code, requires the revocation Court to consider the following sections of 3553(a) in determining the appropriate result for a modification or revocation of supervised release:

- (1) the nature and circumstances of the offense and the history and characteristics of the defendant;
- (2) the need for the sentence imposed –

- (B) to afford adequate deterrence to criminal conduct;
 - (C) to protect the public from further crimes of the defendant; and
 - (D) to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner;
- (4) the kinds of sentence and the sentencing range established for:
- (A) the applicable category of offense committed by the applicable category of defendant as set forth in the guidelines issued by the Sentencing Commission...;
- ...
- (5) any pertinent policy statement issued by the Sentencing Commission...;
- ...
- (6) the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct; and
- (7) the need to provide restitution to any victims of the offense.

Analysis for Ms. Coonrod's Sentence

Sentence Service at Bureau of Prisons

On September 26, 2003, the Court originally sentenced Ms. Coonrod to serve 84 months of incarceration followed by three years of supervision. Her time spent in federal custody turned out to be more punishing than most. BOP eventually housed Ms. Coonrod at FCI Tallahassee to serve her sentence. During that time, several FCI corrections officers came under investigation for introducing various types of contraband into the prison in exchange for both money and sexual favors. The male officers victimized multiple female inmates by using their position of power to intimidate and influence them. Ms. Coonrod, victimized herself, gave valuable information to investigating officials that was used to develop the case against the officers. She agreed to be

interviewed and eventually testified at trial against two officers who did not plead guilty, resulting in a successful outcome for the government. The result of these efforts was the reduction in her sentence by 21 months. (Document 189).

Service of Supervised Release

Ms. Coonrod's supervised release began on June 30, 2008. Her primary goal since her release from prison has been to have a normal law abiding life where she works, takes care of her children, and hopes to find someone to share her life with. Since her release from prison in 2008, despite several serious physical injuries, she has received no new charges, completed outpatient drug treatment at CADAS, failed no drug screens, maintained employment, and fully paid the \$12,140 restitution in her case. There are no allegations that Ms. Coonrod has not reported to the probation office or absconded from supervision. There are no allegations of illegal activity on Ms. Coonrod's part.

First Modification of Supervised Release

Ms. Coonrod's behavior on supervision has not been without problems and she has received modifications, yet each of her modifications has occurred within a context. The first modification occurred on February 23, 2010 (Document 199) and required Ms. Coonrod to perform 20 hours of community service, which she has completed. The reason for the modification was Ms. Coonrod's failure to provide proof of wages, receipt of food stamps, use of her daughter's car, and application for new lines of credit. (Document 199). Ms. Coonrod voluntarily accepted the performance of this community service without a hearing. As an explanation to the underlying reasons for the conduct which led to the modification, on January 10, 2010, Ms. Coonrod had been in a motor vehicle accident. (See Memorial records). Ms. Coonrod injured her shoulder and back. She missed some work days and received a worker's compensation check through Unum Provident for others. As a

result, she was receiving a check but wasn't working. She usually received a recurring check/proof of income, but was having difficulty getting a copy of her pay stub for these changed payments. The U.S. Probation Office is aware that Ms. Coonrod has maintained steady employment through Pilgrim's Pride and that her place of employment has not changed. At this same time, Ms. Coonrod was inquiring about enrollment into Virginia College or Chattanooga State. Virginia College applied for financial aid for Ms. Coonrod. Ms. Coonrod did not attend Virginia College and enrolled in Chattanooga State instead. Thus, while the violations did technically occur, there were underlying reasons. But as stated, Ms. Coonrod voluntarily accepted the modification of her supervision and completed what was asked of her.

Second Modification of Supervised Release

The second modification occurred roughly one month later on March 26, 2010. The basis of this modification was for continued contact with Terrence Etchison (an individual formally on federal supervision), leaving the district to travel to Atlanta (once in 2008 and once in 2010), failing to inform the USPO about contact with law enforcement, and failure to list all financial accounts. (Document 200). Ms. Coonrod acknowledged the relationship with Mr. Etchison, whom she originally met as a coworker at Pilgrim's Pride and admitted her travel to Atlanta, one event of which occurred two years earlier. Mr. Etchison was shot and killed on February 27, 2010, four days after the imposition of her first modification. The contact with law enforcement occurred at the courthouse and was related to a hearing regarding Mr. Etchison's murder. And, upon instruction from the probation office, Ms. Coonrod closed the joint bank account she had with Mr. Etchison and provided proof of the closure.

It was also during this time when Ms. Coonrod was ordered to participate in a mental health treatment program. Ms. Coonrod has attended counseling sessions with Dr. Bertin Glennon (See

Glennon Records) since. She has also addressed her mental health issues with her own medical doctors and undertook a Depression Inventory test. (See Whitaker Records). On March 8, 2010, Ms. Coonrod had first discussed her inability to sleep due to her grief over Mr. Etchison's death. On March 10, 2010, she had again discussed her grief and going back to work to therapeutically deal with the issue. On March 29, 2010, her primary care physician Dr. Parham, noted that she discussed feeling easily annoyed, crying a lot and difficulty sleeping. Dr. Parham diagnosed her with grief and recommended grief counseling.

Third Modification of Supervised Release

After Mr. Etchison's death, Ms. Coonrod received threatening and harassing phone calls from his family. These family members also contacted her probation officer. Ms. Coonrod filed at least one police report concerning the harassing phone calls. (See police report). Her contact with Mr. Etchison's family was one of the reasons for her third modification - that she reside for six months in the Salvation Army Halfway House. The other two reasons for the modification were moving to her own residence from her grandmother's and not following through with the recommendations of her mental health provider.

Ms. Coonrod acknowledged that she sought her own housing after her restitution was paid, due to overcrowding at her grandmothers house. However, she has followed through and attended her mental health counseling. According to her medical records, her mental health counselor is Dr. Bertin Glennon, Ph.D. Since Dr. Glennon is not a medical doctor, he cannot prescribe psychotropic medications. Ms. Coonrod spoke about her mental health and depression issues with at least two medical doctors, Cassandra Whitaker, M.D., and Bernard Parham, M.D. (See records). Dr. Whitaker had Ms. Coonrod undertake an examination called the Beck Depression Inventory. Although Dr. Whitaker opined that Ms. Coonrod suffered a mild mood disturbance, she determined

as a medical doctor that Ms. Coonrod was having an appropriate grief reaction and did not prescribe medication. (Whitaker records). Likewise, Dr. Parham did not prescribe medication. Records reveal that Ms. Coonrod has maintained a dialog with her medical doctors concerning her mental health and it was they that determined that she did not need psychotropic medication, yet a reason for her modification was that she did not obtain medications for depression.

Salvation Army Halfway House

Ms. Coonrod accepted her third modification and entered the Salvation Army Halfway House on June 8, 2010. She was terminated from the halfway house on November 24, 2010, fourteen days before her six months was set to expire. During her stay at the Halfway House, Ms. Coonrod again maintained employment, failed no drug screens, and continued her mental health counseling. She attended Chattanooga State five days a week in the morning and worked in the evening. The Salvation Army notes that her multiple doctor appointments were maintained with no accountability issues. The reason for her termination from the halfway house, which Ms. Coonrod acknowledges, has been described as “insolence” and will be addressed at her revocation hearing.

During Ms. Coonrod’s stay at the Salvation Army, on September 3, 2010, she suffered a very traumatic injury at work resulting in the partial amputation of three fingers on her right hand. (See Erlanger Records). Since that time, Ms. Coonrod has had significant amputation pain and phantom amputation pain. Her primary care physician as well as an orthopedic doctor have treated Ms. Coonrod. One of the medications prescribed to attempt to deal with Ms. Coonrod’s pain is Lyrica. On November 9, 2010, Ms. Coonrod advised her doctor of an adverse reaction to Lyrica which caused lethargy, vertigo and confusion. Her medication was changed to Tylenol 3, which she reported on December 1, 2010, to her doctor as causing adverse emotional and thought behavior, culminating in anger and a zombie like sensation. All of this occurred during Ms. Coonrod’s stay

at the halfway house.

To Ms. Coonrod's credit, she maintained her employment during this time and in fact still works at Pilgrim's Pride. Much like her prior car accident, she received worker's compensation for a period of time. Ms. Coonrod received two writeups from the Salvation Army, one on October 15th and one on September 7th, for failure to pay subsistence. The September 7th was four days after her accident. She was heavily medicated when she missed the September 7th payment. On October 15th she was receiving worker's compensation and mistakenly thought she did not have to pay subsistence out of it. According to the Salvation Army she did catch up on her payments.

Consideration of the § 3553(a) Requirements

Section 3583(e) requires the Court to consider the factors set forth in section 3553(a)(1), (a)(2)(B), (a)(2)(C), (a)(2)(D), (a)(4), (a)(5), (a)(6), and (a)(7). Ms. Coonrod recognizes that being terminated from the Salvation Army Halfway House requires punishment. However, given her performance in the areas in which defendants under supervision are asked to rebuild their lives, she is asking that the Court not sentence her to the maximum 24 months of imprisonment, and in the alternative to consider intermittent or home confinement.

The history and characteristics of Ms. Coonrod have been described above. There does not appear to be any allegation of criminal conduct on Ms. Coonrod's behalf, therefore there is no need to deter her from criminal activity or further crimes. She is working, attending school when she can, attending counseling and keeping medical appointments. In fact, she had an additional hand surgery scheduled for February 17, 2010. Further, her restitution has been paid in full.

Since Ms. Coonrod was released from the Salvation Army Halfway House, she has continued to work, attend her doctors appointments, and take care of her daughter. Ms. Coonrod has not had the easiest life and frankly has little reason to trust authority. Her childhood is reported to Dr.

Glennon as miserable. At the young age of eleven, while being babysat by a cousin, she was impregnated by the boyfriend of her cousin. She spent most of her childhood being moved from foster home to foster home, believing that no one cared for her. She spent five years in prison, during part of which she was not protected from the system's own "bad seeds" but was manipulated, assaulted and taken advantage of by corrections officials. When she finally found a romantic companion through work and hopefully a life partner, the relationship was forbidden by authority, then she lost him to murder. Little reason to trust authority can be found in these events.

Moreover, Ms. Coonrod has had what would be considered by any standards as a difficult year. She lost three fingers at her employment yet kept on working. For Ms. Coonrod to stay out of legal trouble, to stay employed, to stay off drugs and to continue her counseling should be commendable. She has performed above the result level of most supervised releasees. This is a testament to her attempts to try to respect and trust a system that has frequently let her down. This effort is also reflected in her willingness to acknowledge her missteps and accept punishments dispensed.

Ms. Coonrod is capable of performing the big requirements of probation. What Ms. Coonrod is being violated for is her insolence and alleged inability to follow directions. The breaking of rules arguably, but not laws. Given her personal history and recent medical injury, her attitude is at least explainable if not understandable. The Court has a number of options in fashioning the appropriate punishment for Ms. Coonrod. However, a period of prolonged incarceration for her grade C violations is excessive in consideration of her other achievements. As shown above, a sentence encompassing alternatives to incarceration will adequately address the § 3553(a) concerns.

WHEREFORE, Ms. Coonrod respectfully submits to this Honorable Court that a non-guidelines sentence lower than that reflected in the Presentence Report (PSR) would be a sentence which is sufficient but not greater than necessary to meet the requirements of 18 U.S.C. § 3553(a).

Respectfully submitted,

FEDERAL DEFENDER SERVICES
OF EASTERN TENNESSEE, INC.

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Certificate of Service

I HEREBY CERTIFY that on February 17, 2011 a copy of the foregoing was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. Mail. Parties may access this filing through the Court's electronic filing system.

/s/ Mary Ellen Coleman
Mary Ellen Coleman
Assistant Federal Defender