

1 Austin Ryan Steinbart
2 Inmate Number# 35841508
3 Central Arizona Florence
4 Correctional Complex
5 P O Box 6300
6 Florence, AZ 85132

7
8 IN THE UNITED STATES DISTRICT COURT
9 DISTRICT OF ARIZONA

10
11 United States of America
12 Plaintiff

13 vs.

14 Austin Ryan Steinbart
15 Defendant

) Case No.: CR-20-00485-PHX

) DEFENDANT'S SENTENCING
MEMORANDUM

16
17 DEFENDANT, Austin Ryan Steinbart, Pro Se, hereby submits this Sentencing Memorandum as
18 referenced in the prior notice to this Court (*Doc. 140*). Mr. Steinbart pled guilty to Count 4, Interstate
19 Communications with the Intent to Extort, in violation of 18 U.S.C. §§ 875(d), a Class E felony offense
20 (see *Doc. 136*). The Plea Agreement stipulates that Mr. Steinbart shall be sentenced to time-served.
21 Sentencing is scheduled before this Court on April 5, 2021 (Min Ent. 141). Mr. Steinbart requests that
22 this Court consider the unique character, background and circumstances presented in this case and he
23 requests that Court sentence him to time served (225 days), followed by one year of Supervised
24 Probation, under the same release conditions that he was under his Supervised Pre-Trial release, as of
25 June 26, 2020.
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1 **I. Legal Basis**

2 Pursuant to 18 U.S.C. §3553(a) (2), requires a sentencing court to impose a sentence that is
3 “sufficient, but not greater than necessary” to comply with the four purposes of federal
4 sentencing. Those four purposes, set forth in § 3553(a)(2), are the need for the sentence imposed
5 to accomplish the following: (1) to reflect the seriousness of the offense, to promote respect
6 for the law, and to provide just punishment; (2) to afford adequate deterrence to criminal
7 conduct; (3) to protect the public from further crimes of the defendant; and (4) to provide the
8 defendant with needed training, medical care, or other correctional treatment in the most
9 effective manner. 18 U.S.C. § 3553(a) (2); *United States v. Carty*, 520 F.3d 984 (9th Cir. 2008).
10 “These four considerations -- retribution, deterrence, incapacitation, and rehabilitation -- are
11 the four purposes of sentencing generally, and a court must fashion a sentence ‘to achieve
12 the [se] purposes... to the extent that they are applicable’ in a given case. *Tapia v. United States*,
13 131564 U.S. 319, 326, 131 S. Ct. 2382, 2387 (2011) (quoting 18 U.S.C. § 3551(a)).

14 In addition, 18 U.S.C. § 3553(a) requires district courts to consider the following factors (in
15 addition to the advisory Guidelines range and any pertinent policy statements issued by the
16 Sentencing Commission) in imposing a sentence: (1) the nature and circumstances of the offense
17 and the history and characteristics of the defendant; (2) the kinds of sentences available; (3) the
18 need to avoid unwarranted sentence disparities among defendants with similar records who have
19 been found guilty of similar conduct; and (4) the need to provide restitution to any victim(s). 18
20 U.S.C. § 3553(a) (1)-(7).

21 In *United States v. Booker*,¹ the United States Supreme Court decided that the Constitution
22 mandated that the Sentencing Guidelines are merely advisory. Subsequent decisions by the
23 Supreme Court² have made it clear that after calculating and considering the appropriate range
24

1 under the Sentencing Guidelines, the Court is free to impose a sentence consistent with
2 the factors set forth in 18 U.S.C. §3553 but outside the strictures of the Guidelines.
3

4 1 1 543 U.S. 220, 125 S.Ct. 738 (2005).

5 2 See *Rita v. United States*, 551 U.S. 338, 127 S. Ct. 2456 (2007); *Gall v. United States*, 552 U.S. 38,
128 S. Ct. 586 (2007), and *Kimbrough v. United States*, 552 U.S. 85, 128 S.Ct. 558 (2007).

6 **II. Facts**

7 Mr. Steinbart agrees with the summation that has been presented in the Presentence Report
8 by the Prosecution and presented to the Court. Upon review of the Presentence report draft
9 provided by United States Probation Officer Todd J. Barrett, Mr. Steinbart objects to some
10 recommended conditions of Supervised Release that will be foisted upon him, that are far and
11 above that of what the mandatory requirements of Supervised Release. He requests that this
12 Court be moved to remove those items that are in excess of the mandatory conditions and ones
13 that would cause great harm to the ability of Mr. Steinbart the ability to work and earn a living.
14 This income will be necessary for him to meet his financial responsibilities to not only live, but
15 also to the Court and for any potential restitution.
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18 **III. Request for Reasonable Sentence**

19 The Probation Department recommends that Mr. Steinbart be sentenced to time served and one
20 year of supervised release, with numerous additional conditions of his release. The reasons noted
21 for the recommendation are not because of Mr. Steinbart's criminal history or concern that he is
22 a high flight risk, or a danger to his community. They are also not because he caused grave harm
23 or injury to another person. However, they are overly intrusive, broad and exceed what would be
24 necessary to supervise Mr. Steinbart.
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26 Mr. Steinbart has no prior criminal history. His prior incarceration periods during Pre-
27 Trial release were ruled to be unfounded by Magistrate Judge Debra Fine (Min. Ent. 49),
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1 except for the violation on September 1, 2020. On that date, Mr. Steinbart advised his Pre-
2 Trial services officer of what he had done prior to even being asked. During the hearing on
3 September 8, 2020, Magistrate Judge Michelle Burns remanded Mr. Steinbart into custody
4 pending trial, which is where he has been for the last 225 days. At that time, he had not yet
5 been indicted due to exigent circumstances relating to the COVID-19 Pandemic. The various
6 times that Mr. Steinbart was arrested during his Pre-Trial release for offenses ranged from
7 four days to 225 days incarceration.
8

9 The concerns that Mr. Steinbart has with regards to the breadth of the recommended
10 terms of Supervised Release are ones that would concern any citizen of this great nation. Mr.
11 Steinbart has the right to life, liberty and the pursuit of happiness, even if he is on Supervised
12 Probation and carries a felony. He also has great concern about the some of the recommended
13 conditions making it impossible for him to work.
14

15 **IV. Mr. Steinbart requests the Court NOT impose the following conditions of Supervised**
16 **Release:**

17 1. Internet and Computer Monitoring- Mr. Steinbart objects to this proposed condition
18 because:

19 a. The language of the condition is overly broad and vague. When a device is
20 connected to the internet this language suggests that it shall be monitored. This
21 would include any device or terminal that has the capability to connect to the
22 internet including, but not limited to:
23

- 24 i. Point of Sale systems
25 ii. Self-Check Out Registers
26 iii. Any self service station
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28

1 iv. ATM's

2 v. Computers and equipment involved at potential employers locations.

3 b. Magistrate Judge Debra Fine ruled during a Pre-Trial hearing on June 26, 2020
4 (Doc 50), that the suggested conditions of computer and internet monitoring
5 would create an undue burden on the probation officers and set an unreasonably
6 high objective standard to meet given Mr. Steinbart's work in Media Production.

7 Due to this, Mr. Steinbart asks that this Court not impose this proposed condition for the
8 reasons listed above. Additionally, Due to the overly broad and vague language in this
9 condition, Mr. Steinbart requests that this Court remove this proposed condition as void
10 for vagueness.
11

12
13 2. Phone Monitoring- Mr. Steinbart objects to this proposed condition because:

14 a. While Mr. Steinbart understands that his probation will come with some
15 mandatory conditions, the people and/or employers that he will be
16 communicating with still have a right to their privacy.

17 b. The monitoring condition exceeds that which was previously imposed during
18 Mr. Steinbart's Pre-Trial release. On June 26, 2020, Judge Debra Fine lessened
19 the restrictions that Mr. Steinbart had, thus allowing him access to the internet,
20 social media and his phone(s). (Doc. 50 & Min. Ent. 49)

21 c. The alleged crimes were all public statements, not private communications, thus
22 the need for monitoring is not necessary. There are more stringent mandatory
23 conditions already in place, such as that Mr. Steinbart must not commit any
24 crimes, State or Federal, or he could have his probation revoked.
25

26 Mr. Steinbart requests that this Court strike this proposed condition for the reasons listed
27
28

1 above.

2 3. Number of Devices and E-Mail Accounts- Mr. Steinbart objects to the proposed
3 condition limiting the number of devices and e-mail accounts that he may have access
4 to because:

5 a. On or about June 1, 2020, Mr. Steinbart was formally contracted by
6 WanderWorks Film Company. During his hearing before Magistrate Judge
7 Debra Fine, she was presented with the documentation of such contract as well
8 as the scope of work that Mr. Steinbart would be doing for this company. A
9 condition that restricts how many devices and how many e-mail accounts he may
10 have would limit his ability to be effective at performing the job in which he was
11 contracted to perform.

12 b. This condition creates an undue burden not only to Probation Services, but to
13 the work effort Mr. Steinbart is attempting to successfully complete for the
14 multiple business ventures that he currently has and will have in the future
15 upcoming year. This is because he has multiple e-mail accounts for different
16 professional endeavors and for his personal life.

17 Mr. Steinbart requests that this Court strike this proposed condition for the reasons listed
18 above and, to allow him the ability to work with as many devices as is needed to complete
19 his job roles successfully.

20 4. Mental Health Evaluation- Mr. Steinbart objects to this proposed condition because:

21 a. He has already undergone two (2) previous mental health evaluations since the
22 time he was arrested on March 31, 2020. One was performed by a licensed
23 medical professional of the Court's choosing, one was performed by a licensed
24

1 medical professional chosen by Mr. Steinbart.

2 i. There is no evidence of any mental defects that warranted further
3 evaluation.

4 ii. Mr. Steinbart was also deemed competent to stand trial, and later
5 competent enough to represent himself as a ProSe defendant. (Doc. 92)

6
7 Mr. Steinbart requests that this Court strike this proposed condition for the reasons listed
8 above and, as he will seek his own medical treatment by his own practitioners, *if* the
9 need arises.

10 5. Drug Treatment Counseling- Mr. Steinbart objects to this proposed condition because:

11 a. He has no history of substance abuse.

12 b. The case against him was computer related, not drug or alcohol related.

13 c. The Pre-Trial release condition that was violated was the use of Mr. Steinbart's
14 prescribed medicinal marijuana.

15
16 d. At the time of the sentencing hearing, Mr. Steinbart will have been incarcerated
17 for 225 days. This would infer that if there was a substance abuse issue, which
18 there is not, Mr. Steinbart has gone seven and a half (7½) months without using
19 any of his prescribed medications. This does not meet the merit of requiring
20 "Substance Abuse Treatment Counseling".

21
22 e. Mr. Steinbart is fully aware and takes no issue in the fact that he will be required
23 to take and pass required drug tests.

24
25 Mr. Steinbart requests that this Court strike this proposed condition for all of the reasons
26 listed above, as it is not warranted and is a waste of resources because he is not, nor has
27 he ever been an addict or suffered any substance abuse issues.

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1 6. Permission Based Access to Social Media- Mr. Steinbart objects to this proposed
2 condition because:

- 3 a. The language is vague.
4
5 b. Social Media access is vital to the job he was contracted to do with
6 WanderWorks Film Company, as well as the other business ventures he is
7 engaged in.
8
9 c. There are more stringent conditions within the Mandatory Conditions of
10 Probation, such as he must not commit any crimes, State or Federal, or he may
11 have his probation revoked.
12
13 d. Social media is all public and he is well aware that he will need to use social
14 media responsibly, as he did when previously allowed by Judge Debra Fine on
15 June 26, 2020 (Doc 50. Min. Ent. 49).

16 Mr. Steinbart requests that this Court strike this proposed condition for all of the
17 reasons listed above and because there is already precedence set in this case that
18 ruled that imposing such a condition would be too stringent and too much of a
19 burden upon the Probation Services Office.

20 **V. Conclusion**

21 In summation, sentencing Mr. Steinbart to time served with one year of supervised release
22 is a suitable sentence, all parties agree on that. It also would serve as a deterrent to both
23 Mr. Steinbart and others in his situation. More significantly, it will serve as just
24 punishment for Mr. Steinbart in that he will have been removed from society for a significant
25 period of time and be supervised following his release. However, not imposing as part of
26 that supervision the six (6) proposed conditions as listed above would allow Mr. Steinbart
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1 to reintegrate into his life and society with a sense of humility and duty to continue to
2 serve in others best interests. Mr. Steinbart respectfully submits this Sentencing
3 Memorandum, and requests this Courts consideration in this regard.
4

5 Respectfully Submitted This First Day of April, 2021.
6

7 Austin Ryan Steinbart
8 Defendant
9 *s/ Austin Ryan Steinbart*
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12 **CERTIFICATE OF SERVICE**

13 I hereby certify that on the 1st day of April, 2021, I electronically transmitted the attached document
14 to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic
15 Filing to the following CM/ECF registrants:
16

17 Raymond Woo

18 James Knapp

19 *Attorneys for Plaintiff*
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