

**IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF FLORIDA  
PANAMA CITY DIVISION**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**vs.**

**CASE NO. 5:01cr22-RH**

**WILLIAM JEFFERSON,**

**Defendant.**

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**DEFENDANT’S SENTENCING MEMORANDUM**

William Jefferson has served eight years in prison since his arrest in 2001. He is now 34 years old. He has conducted himself well in serving what was a 30-year prison sentence. He has received only a few minor disciplinary reports, has a consistently good work history, and has taken advantage of the educational and development opportunities at the prison. (Exhibit 1).<sup>1</sup> In his view and the view of those closest to him, he has matured and is a far better, more responsible person than he was when he committed his offense.

Even after having served eight years, Mr. Jefferson is still facing additional time. The current guideline calculations recommend a sentence of about 11 to 14 years. The Government, based on its claims regarding drug quantity, apparently contends the range should be almost 22

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<sup>1</sup>Exhibit 1 is Mr. Jefferson’s most recent progress report from FCI Marianna where he is currently serving his sentence. The document is *not* attached. The defense will introduce a copy of it at the sentencing hearing and will provide copies of it to the Court and the Government in advance of the hearing.

years to more than 27 years. In a letter to United States Probation Officer Lori Masso, the undersigned has argued that the range should be about 9 to 11 ½ years.

Mr. Jefferson has a long history of drug abuse. PSR ¶¶ 72-78. When Mr. Jefferson committed his crime he was addicted to methamphetamine and the drug that goes by the acronym of GHB or, in the language of his trial, “scoop.” That addiction provided much of the motivation for his crime. Like many of those who testified for the Government,<sup>2</sup> Mr. Jefferson sold methamphetamine so that he would have access to what is a “highly addictive drug.”<sup>3</sup> While he has participated in the drug counseling that has thus far been offered to him (Exhibit 1), he had not participated in drug counseling prior to his sentencing in 2001. PSR ¶ 78.

The offense levels based on drug quantities found in USSG § 2D1.1 apply to those who in a calculated way have sold drugs solely for the purpose of making a profit. They apply equally to those who sold for a profit and to support their own drug habits, and to those who sold solely to support their addiction. Mr. Jefferson’s addiction placed him on the lower end of this scale some distance from those who sell solely to make a profit. Given that, it seems reasonable his chances of succeeding as a responsible member of society will be enhanced by eight years away from these drugs and the promise the sort of effective drug treatment that will be available to him

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<sup>2</sup>Ashley Wilcox (Doc. 128, p. 214) and Russell Jones (Doc. 129, p. 367) specifically said they were addicted. Jones testified that “we all were.” *Id.* Michael Kincaid wasn’t asked directly whether he was addicted, but testified about being “high on methamphetamine for months and months and months.” Doc. 129, p. 424.

<sup>3</sup> RAND Corporation, *The Economic Cost of Methamphetamine Use in the United States, 2005* (2009) at xii, available at <http://www.rand.org/pubs/monographs/MG829/>

in the Bureau of Prison's Residential Drug Abuse Treatment Program.<sup>4</sup> That will, in turn, reduce the likelihood of Mr. Jefferson committing new crimes, thereby offering protection to "the public from further crimes of the defendant." 18 U.S.C. § 3553(a)(2)(C). Because of that, a sentence below the guideline range calculated by the probation office and significantly below the range proposed by the Government would be "sufficient, but not greater than necessary" to achieve the Congressionally established goals of sentencing. 18 U.S.C. § 3553(a).

Mr. Jefferson's addiction to GHB was so severe that twice, in the weeks leading up to his arrest, he was found passed out behind the wheel of a pick-up truck. Doc. 128, pp. 81-87, 100-101; Doc 165, pp. 11-19, 34-51. Government witnesses Ashley Wilcox and Russell Jones both testified that Mr. Jefferson was addicted to methamphetamine. Doc. 128, p. 214; Doc. 129 p. 367. The presentence report includes Mr. Jefferson's statement that he first used methamphetamine in February of 2001 and that "it quickly escalated into daily use thereafter." PSR ¶ 16.

Many courts have become aware of the addictive power of methamphetamine. *See United States v. Almaguer*, No. 8:06cr 18, 2007 U.S. Dist. LEXIS 1708, \*21 (D. Neb. Jan. 5, 2007)(unpublished)("The court is sadly familiar with the addictive power of methamphetamine and the difficulty in overcoming that addiction."). One journalist, who has written about his son

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<sup>4</sup>"Inmates are released into RDAP base on their proximity to their release date, to ensure that every inmate who volunteers and is eligible for RDAP received the full course of treatment prior to community release. Inmates in the residential program are housed together, to create a treatment community. Treatment is provided for a minimum of 500 hours, over a 9 to 12 month period. Required RDAP components also include a transitional drug program, when the inmate is returned to general population, and participation in a community-based drug treatment, when the inmate is released to an RRC." U.S. Department of Justice, *Legal Resource Guide to the Federal Bureau of Prisons* (2008) at 23-24, available at: [www.bop.gov/news/PDFs?legal\\_guide.pdf](http://www.bop.gov/news/PDFs?legal_guide.pdf)

Nick's addiction to methamphetamine, has described the affect of the drug this way:

Nick now claims that he was searching for methamphetamine for his entire life, and when he tried it for the first time, as he says, "That was that." It would have been no easier to see him strung out on heroin or cocaine, but as every parent of a methamphetamine addict comes to learn, this drug has a unique, horrific quality. In an interview, Stephan Jenkins, the singer in the band Third Eye Blind, said that methamphetamine makes you feel "bright and shiny." It also makes you paranoid, incoherent and both destructive and pathetically and relentlessly *self*-destructive. Then you will do unconscionable things in order to feel bright and shiny again. Nick had always been a sensitive, sagacious, joyful and exceptionally bright child, but on meth he became unrecognizable.

David Sheff, *My Addicted Son*, N.Y. Times, Feb. 6, 2005.<sup>5</sup>

District courts may determine the weight to give to the guidelines in any given case:

The district court may determine on a case-by-case basis the relative weight to give the Guidelines in light of other 3553(a) factors. In some cases it may be appropriate to defer to the Guidelines; in others not.

United States v. Lozano, 490 F.3d 1317, 1324 (11<sup>th</sup> Cir. 2007)(internal punctuation and authority omitted). Specific characteristics of individual defendants, which were district courts were once prohibited or discouraged from considering may now be considered. *See Rita v. United States*, 127 S. Ct. 2456, 2473 (2007)(Matters such as age, education mental or emotional condition, medical condition (including drug or alcohol addiction), employment history, lack of guidance as a youth, family ties, or military, civic, charitable, or public service are not ordinarily considered under the Guidelines . . . These are, however, matters that § 3553(a) authorizes the sentencing judge to consider."); United States v. Lazenby, 439 F.3d 928, 933 (8<sup>th</sup> Cir. 2006)("The other

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<sup>5</sup>A copy of the article is available at:  
[http://www.nytimes.com/2005/02/06/magazine/06ADDICT.html?\\_r=1&pagewanted=print&position=](http://www.nytimes.com/2005/02/06/magazine/06ADDICT.html?_r=1&pagewanted=print&position=)

factors cited by the district court, though discouraged or prohibited departure factors under the mandatory guidelines, may also be considered in applying the § 3553(a) factors under Booker.”);

Mr. Jefferson’s drug addiction is part of his “history and characteristics.” 18 U.S.C. § 3553(a). His efforts at selling methamphetamine, to a considerable degree, for the purpose of supporting that addiction is part of the “nature and circumstance of the offense.” *Id.* Sentencing courts have the authority to and have imposed below-guideline sentences on the basis of an individual’s drug addiction. *See, e.g., United States v. Mack*, 331 Fed. Appx. 157, 158 (3d Cir.2009)(unpublished)(where the court imposed a 36-month variance based on a variety of factors including the defendant’s “addiction to controlled substances”); *United States v. Parson*, No. 07-3767, 2009 U.S. App. LEXIS 20036, \*4 (8<sup>th</sup> Cir. Sept. 8, 2009) (unpublished)(“The government concedes . . . that the case should be remanded for the court to consider whether Parson’s drug addiction would justify a further downward variance under § 3553(a)”); *United States v. Sanders*, No. 09-1454, 2009 U.S. App. LEXIS 25672, \*2 (7<sup>th</sup> Cir. Nov. 23, 2009)(unpublished)(“ . . . the court imposes a below-guidelines sentence of 60 months to acknowledge Sanders’s community work and the role that his own drug addiction to crack played in his crime”); *United States v. Jackson*, 537 F.Supp.2d 990, 993 (E.D. Wis. 2008)(“Defendant’s prior convictions were suggestive of an addict, with possession offenses and other petty criminality often associated with addiction.”); *United States v. Richardson*, No. 03cr474, 2008 U.S. Dist. LEXIS 92059, \*1-2 (N.D. Ill. Nov. 13, 2008)(unpublished)(“Taking into account the Defendant’s age, her drug addiction, and the lack of violent behavior despite the presence of guns, the Court imposed a sentence substantially below the guideline range . . .”). Given the role Mr. Jefferson’s drug addiction played in his life and the offense, his addiction similarly justifies a

below-guidelines sentence.

Should this Court ultimately determine that his guideline range is higher than that calculated by the defense, he, for the reasons stated in this memorandum, respectfully requests this Court to impose a sentence below the advisory guidelines range.

### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing has been furnished by electronic delivery to Michael Simpson, Assistant United States Attorney, 111 N. Adams Street, 4<sup>th</sup> Floor, Tallahassee, FL 32301, this 12th day of December, 2009.

Respectfully Submitted,

By: *s/Randolph P. Murrell*  
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*The names of the defendant and witnesses are fictional for reasons of privacy.*