

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

TRANSCRIPT OF PROCEEDINGS

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: UNITED STATES OF AMERICA, : CRIMINAL ACTION
: : NO. 5:18-cr-00068
: vs. :
: :
: RONALD COLLINS, : August 14, 2019
: :
: Defendant. :
: :
-----x

SENTENCING HEARING

BEFORE THE HONORABLE IRENE C. BERGER
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the United States: MR. STEVEN I. LOEW
United States Attorney's Office
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For the Defendant: MR. GREGORY J. CAMPBELL
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Court Reporter: Lisa A. Cook, RPR-RMR-CRR-FCRR

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P R O C E E D I N G S

THE CLERK: The matter before the Court is the *United States vs. Ronald Collins*, Case Number 5:18-cr-68, scheduled for sentencing.

THE COURT: Good morning, everyone.

Counsel, would you note your appearance for the record, please.

MR. LOEW: Good morning, Your Honor. Steve Loew for the United States. And seated at counsel table is Special Agent David Bullard with ATF.

MR. CAMPBELL: Good morning, Your Honor. Gregory Campbell on behalf of the defendant, Ronald Collins, who's present here in the courtroom.

THE COURT: All right, counsel, we are scheduled for sentencing. Are you all prepared to go forward?

MR. CAMPBELL: Yes, ma'am.

MR. LOEW: Yes, Your Honor.

THE COURT: Madam Clerk, if you would please administer the oath to Mr. Collins.

RONALD COLLINS, DEFENDANT, SWORN

THE COURT: Mr. Collins, the records reveal that on March the 12th of this year you were convicted of knowingly making a false written statement intended or likely to deceive a firearm dealer with respect to a fact material to the sale of a firearm in violation of 18,

1 U.S.C., Section 922(a)(6) as charged in Count One of the
2 indictment filed against you, and of possession of a firearm
3 by a person who had been adjudicated as a mental defective
4 or who had been committed to a mental institution in
5 violation of 18, U.S.C., Section 922(g)(4) as charged in
6 Count Two.

7 Since that time, the probation office has prepared a
8 Pre-Sentence Investigation Report.

9 Mr. Campbell, have you had the opportunity to read that
10 report prepared on May 31st and revised on July the 24th?

11 MR. CAMPBELL: Yes, ma'am.

12 THE COURT: Did you also have the opportunity to
13 review the attached addendum?

14 MR. CAMPBELL: I have, Your Honor, yes, ma'am.

15 THE COURT: Mr. Collins, did you have the
16 opportunity to read that report prepared on May 31st and
17 revised on July the 24th?

18 THE DEFENDANT: I did, Your Honor.

19 THE COURT: Were you able to discuss its contents
20 with your attorney, Mr. Campbell?

21 THE DEFENDANT: I was, Your Honor.

22 THE COURT: And did you also have the opportunity
23 to review the attached addendum?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: And were you able to discuss that with

1 him?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: Do you understand, Mr. Collins, the
4 contents of the Pre-Sentence Investigation Report?

5 THE DEFENDANT: I do, Your Honor.

6 THE COURT: I have reviewed it as well and it
7 appears the Government has made two objections to the report
8 and that the defendant has made one, and I will address
9 those at this time.

10 The Government objects to the failure to include an
11 enhancement for obstruction of justice as a result of the
12 defendant's assault on his prior defense counsel. The
13 Government notes that it led to the replacement of counsel,
14 delayed trial for five months, and that lawyers are, in
15 fact, officers of the court.

16 Counsel, any statements that you want to make relative
17 to the Government's objection?

18 Mr. Loew, I'll begin with you, sir.

19 MR. LOEW: First, I would just note that, that
20 there's little evidence in the record about the actual
21 assault because it's my understanding that when the former
22 defense counsel, Mr. Bungard, moved to withdraw, that the
23 reasons were then filed *ex parte*. So that's not part of, of
24 the record.

25 So in discussions with defense counsel, he agrees that

1 for the purposes of the sentencing hearing, and by a
2 preponderance of the evidence, the United States could
3 establish that the defendant did assault David Bungard which
4 ultimately led to, to his replacement.

5 So given that, I think that the argument is in much
6 more detail set forth in our briefing, but it just seems
7 that if the defendant had assaulted anyone else in the
8 courtroom, he would get obstruction of justice. And there
9 should be no exception for his own counsel.

10 It clearly obstructed the administration of justice and
11 it's -- it just doesn't seem that it's okay to assault your
12 own counsel and, and not be held accountable for it in the
13 very same case where he's being represented. And the
14 defense counsel, they're officers of the court, Your Honor.

15 THE COURT: All right. Thank you, Mr. Loew.

16 Mr. Campbell, anything from the defense?

17 MR. CAMPBELL: Yes, Your Honor.

18 As, as we've set forth in our, our objections, or our
19 comments, I don't, I don't believe that under the
20 obstruction of justice statute or anything else that this
21 conduct falls within that.

22 Be that as it may, Your Honor, I did not know until
23 perhaps even the draft report, but for sure by the final
24 report, that there were proceedings in the Western District
25 of Virginia. I've talked to Mr. Bungard. He was unaware of

1 those also.

2 It seems to me -- Your Honor, the probation officer
3 found no obstruction. It seems to me that there could be a
4 possibility if the Court finds obstruction here that
5 Mr. Collins could be penalized twice; once with an
6 enhancement here and then perhaps a trial in the Western
7 District of Virginia, or the trial could be here. I just
8 understand it's in the Western District because the U.S.
9 Attorney's Office recused themselves.

10 So I would ask, as I say, as the report indicates,
11 investigation is on-going and potential charges are pending
12 is what's in the report. And, and based on that fact and
13 the fact that the Government's theory seems to be that
14 because of what happened to Mr. Bungard, that somehow that
15 delayed the trial for five months, well, one of those
16 delays, maybe even two of those delays, was me filing
17 motions to continue so I could get through the material, the
18 discovery material and everything.

19 There certainly has been no danger or anything. I
20 mean, Mr. Collins has been incarcerated this whole time.

21 And I would just ask the Court to uphold the probation
22 officer and find that there was no obstruction based on
23 these facts in this case.

24 THE COURT: All right. Thank you, Mr. Campbell.

25 After giving this great consideration, counsel and

1 Mr. Collins, I find that the enhancement should, in fact,
2 apply.

3 The defendant's appointed counsel was an officer of
4 this court engaged in his obligations with respect to this
5 case by meeting with the defendant and preparing his defense
6 when the defendant assaulted him.

7 Assaulting an attorney for the prosecution due to
8 unhappiness with his or her actions related to the case
9 would clearly be obstruction of justice.

10 Defense attorneys are equally important to ensuring the
11 administration of justice in a criminal case and are no less
12 entitled to whatever protection, respect, and deterrence is
13 available.

14 The defendant argues that he did not intend to delay
15 the trial, but delay is not the only method of obstruction.
16 And the Court finds that the record and circumstances
17 reflect an intent to interfere with the prior counsel's
18 ability to proceed with his obligations in this case.

19 I will note that Mr. Campbell, who has represented this
20 defendant at trial and throughout these proceedings, was
21 appointed after this Court had denied a motion by
22 Mr. Collins's prior attorney to withdraw as counsel.

23 The Court denied that motion until the Court was
24 presented with documentation indicating that the assault had
25 taken place.

1 I find, again, that the defendant's conduct is
2 obstructionist and I sustain the objection and I find that
3 the enhancement should be applied. And I preserve
4 Mr. Collins's objection and exception to my doing so.

5 The Government argues that an upward departure or
6 variance is appropriate because the defendant's Criminal
7 History Category does not represent the seriousness of his
8 history or the likelihood that he will commit other crimes,
9 and an above-guideline sentence is appropriate based on the
10 evidence that the defendant is a danger to the community.

11 Counsel, I will hear argument on that at the time of
12 sentencing and I will give it consideration. But I think
13 it's better addressed in your comments as to the actual
14 sentence to be imposed.

15 I do find that the Pre-Sentence Report is accurate as
16 drafted and we will proceed in that fashion unless there is
17 an objection by either of you at this point.

18 THE DEFENDANT: There is something, Your Honor.
19 I'm, I'm sorry to disrupt. I would like to address the
20 Court if I may.

21 THE COURT: Mr. Campbell, I don't want Mr. Collins
22 to do anything that's going to negatively impact him. And,
23 so, if you want to have a conversation with him before he
24 speaks, or if you've already done that or have some opinion
25 on whether he should, in fact, address me, I will hear you.

1 MR. CAMPBELL: If I may have a moment, Your Honor.

2 THE COURT: Yes, sir.

3 (Mr. Campbell and the defendant conferred off the
4 record after which the following occurred:)

5 MR. CAMPBELL: Your Honor, I've talked to
6 Mr. Collins. He is insisting upon addressing the Court at
7 this time.

8 THE COURT: All right.

9 Mr. Collins, I'll hear you.

10 THE DEFENDANT: Certainly, Your Honor.

11 In regards to the incident with Mr. Bungard, the
12 prosecutor talks about obstructing justice. But I have to
13 ask at what, at what justice?

14 During my trial, I had mentioned that I had evidence
15 that David Bungard covered up vital exculpatory evidence and
16 that he had lied to the Court to do so. I have that
17 evidence here today. There's a court order from Judge
18 Kirkpatrick.

19 That court order also dealt with the *habeas corpus* I
20 filed which while it dealt with the issue of evidence in
21 regards to my challenge to the state's having me committed
22 by violating state law, it also dealt with the fact that the
23 Court upheld the *habeas corpus* in a matter and overturned my
24 commitment.

25 Now, that evidence was covered up by David Bungard. In

1 review of this evidence, I had mentioned to you prior to my
2 testifying in court at my trial on the 12th that I could
3 prove this through Document 88. And it said that I had
4 never challenged my commitment in State Court. And you
5 brought up *Lewis vs. The United States* and everything else
6 in your order.

7 The fact of the matter is I did challenge it in State
8 Court. The fact of the matter is that the evidence was
9 covered up by David Bungard.

10 From my understanding, according to the rules of the
11 United States Supreme Court and federal law, an officer of
12 the court, an officer in any way, shape, or form kind of
13 loses that privilege of authority and the protections that
14 come along with it when they are knowingly and purposefully
15 acting in bad faith, in accordance with *Mapp vs. Ohio*, to
16 violate a person's rights.

17 And since he illegally violated my rights to cover up
18 the evidence that was exculpatory, evidence which was going
19 to be the, the focal point of my, the many appeals that I
20 filed, and the notice of appeal that I filed in Beckley with
21 the District Court addressing your order in regards to the
22 acquittal and the motion for a new trial which that's -- it
23 was aimed at this Court actually, Your Honor, because there
24 was a few vital elements missing from that that was never
25 addressed.

1 The, the issue is that as far as the enhancement goes,
2 one, I'm not getting a due process right because of striking
3 a public employee or a Government employee is actually a
4 separate charge. And that's being investigated by the
5 Western District.

6 And since I'm having no due process right for the
7 enhancement on my sentence, I feel I'm being not only in
8 double jeopardy because of what's been going on in the
9 Western District, but I'm also facing a violation of due
10 process rights of being given time for something that
11 otherwise would be defensible in court, and that
12 Mr. Bungard's conduct violated my civil rights as well as
13 the sanctity of the Court, if you will.

14 And that -- in regard to that, I just want to have it
15 on record that I have a copy of that order here today, Your
16 Honor. It was something I filed on the 7th of this month
17 with the Beckley district. I think I filed it mistakenly
18 with the Fourth Circuit, but it was actually intended for
19 this Court because I wanted to bring up some of the issues
20 of evidence that was covered up by David Bungard.

21 And I had attempted to make a showing of evidence on
22 that day as per the federal rule of court procedure. And
23 the only way to have that evidence excluded was for David
24 Bungard to lie to the Court and say that I had never
25 challenged it in a court of law.

1 So if there's any obstruction of justice, it came
2 directly from David Bungard lying to the Court and
3 withholding vital exculpatory evidence which violated my due
4 process rights.

5 THE COURT: All right. Thank you, Mr. Collins.

6 Moving to the next objection, the defendant objects to
7 the denial of a reduction for acceptance of responsibility.
8 He argues that he should not be denied acceptance of
9 responsibility just because he thinks he is innocent both
10 before and after trial.

11 Mr. Campbell, is there anything that you want to place
12 on the record with respect to that particular objection?

13 MR. CAMPBELL: Yes, Your Honor.

14 It seems that the Pre-Sentence Report says no
15 acceptance because we put the Government to its burden of
16 proof at trial. And I'm looking at the guidelines 3E1.1
17 which has to do with acceptance of responsibility. And,
18 Judge, I'm looking at the Application Notes 2 and 4.

19 The, the note -- Application Note 2 states, "Conviction
20 by trial, however, does not automatically preclude a
21 defendant from consideration of such a reduction. In rare
22 situations, a defendant may clearly demonstrate an
23 acceptance of responsibility for his criminal conduct even
24 though he exercises his constitutional right to trial. This
25 may occur, for example, where a defendant goes to trial to

1 assert and preserve issues that do not relate to factual
2 guilt; for instance, to make a constitutional challenge to a
3 statute or to challenge the applicability of a statute to
4 his conduct."

5 The last sentence says, "In such instance, however, a
6 determination that a defendant has accepted responsibility
7 will be based primarily upon pre-trial statements and
8 conduct."

9 Mr. Collins's pre-trial statements, his conduct up to
10 right now has been consistent from day one, Judge, that he
11 believes, he truly believes that he -- that at the time he
12 purchased the firearm, he was not a prohibited person.

13 Application Note 4, "Conduct resulting in an
14 enhancement ordinarily indicates the defendant has not
15 accepted responsibility for his criminal conduct."

16 The probation officer found no obstruction. I, I think
17 that to -- well, the probation officer found no obstruction.
18 You did find that there was obstructive conduct.

19 But, but his pre-trial statements and conduct, Judge,
20 since I've been in the case, and since Mr. Bungard was in
21 the case, Mr. Collins has always been of the opinion that he
22 had the right to purchase and possess that firearm.

23 It might be wrong, but he didn't do it in, in a way
24 that would deny him acceptance. He had that true belief.
25 As I say, the determination that a defendant has accepted

1 responsibility will be based primarily upon pre-trial
2 statements and conduct.

3 All of his pre-trial statements, all of his conduct,
4 Judge, are a result of what he believes that he had a right
5 to do. And I think, Judge, the way that he did it indicates
6 it. Like he didn't go out and get a weapon off the street
7 or anything else.

8 You know, he went to a gun shop. He filled out the
9 application. He went through the three-day waiting period.
10 He got the weapon.

11 Later on he was stopped by, I believe, Officer
12 Gilkerson. There was a call to the police that a man was
13 walking down the street videoing himself with a rifle. The
14 rifle turned out to be a BB gun.

15 Officer Gilkerson found that he had a weapon on him.
16 He checked. He was -- Mr. Collins was cleared. Gilkerson
17 took him to his house.

18 So I think here that because of his actions, based upon
19 his pre-trial statements and his pre-trial conduct, as the
20 Application Note says, indicates that, that he should get
21 his two-level reduction in this case for acceptance. And I
22 ask the Court to consider that argument.

23 THE COURT: All right. Thank you, Mr. Campbell.

24 Mr. Loew, anything from the Government?

25 MR. LOEW: Very briefly.

1 Defense counsel's argument illustrates exactly why he
2 should not get acceptance of responsibility. He committed a
3 crime. He was indicted for those crimes. And he was
4 convicted by a jury for committing those crimes. And before
5 trial, during trial, and now he still thinks that he didn't
6 commit a crime. So he has never accepted responsibility for
7 the crimes he was convicted of committing.

8 And, in addition, based on the obstruction, it
9 certainly is not an extraordinary case where he committed a
10 crime -- another crime and obstructed justice prior to trial
11 and now wants to get acceptance of responsibility.

12 He has never accepted responsibility, and he asserted
13 to the probation officer that he still thinks he can have a
14 gun. So even as of today, he has not accepted
15 responsibility for the crimes he committed.

16 THE COURT: All right, counsel, thank you.

17 With respect to the objection as to acceptance of
18 responsibility, I find that the objection should be
19 overruled.

20 The defendant's belief that his conduct is not or
21 should not be criminal does not support the reduction for
22 acceptance of responsibility. He has continuously denied
23 any wrongdoing, despite the jury's verdict and the
24 substantial evidence of each element of the offenses of
25 conviction.

1 The defendant has been aware of his status as someone
2 who was committed to a mental institution. He knows that
3 given that status, he is prohibited from possessing a
4 firearm, but still denies his culpability.

5 In short, he has not accepted responsibility, and I
6 find that the reduction is, therefore, not applicable.

7 I will note for you lawyers that in looking at this
8 issue, I will be candid and state to you that coming from
9 the state court system where defendants were not penalized
10 in any way for exercising their right to a trial, it has
11 been difficult for this Court to accept that simply because
12 one exercises his or her right to a jury trial that they can
13 lose acceptance of responsibility.

14 And, so, that has not been my philosophy. I do not
15 apply it today because he exercised his right to a trial
16 which I think is a constitutional right and which I think
17 there should be no chilling effect of. But I apply and find
18 that this reduction is not applicable for him simply because
19 he has not accepted responsibility.

20 In all of his letters prior to trial, in his statements
21 prior to, and, again, having understood his status and being
22 made aware that he was not able to possess a firearm
23 legally, the defendant has still not accepted
24 responsibility.

25 For those reasons, I decline to reduce based on that,

1 and I preserve Mr. Collins's objection and exception.

2 Counsel, let me ask you, other than these objections
3 that I have covered with the exception of the one, Mr. Loew,
4 that I intend to let you all address when you address your
5 comments to me regarding sentencing, are there additional
6 objections that either of you want to voice?

7 MR. LOEW: No, Your Honor.

8 MR. CAMPBELL: No, Your Honor.

9 THE COURT: Mr. Collins, are you completely
10 satisfied with the legal representation you've received from
11 Mr. Campbell from its very beginning up through and
12 including today?

13 THE DEFENDANT: No, Your Honor.

14 THE COURT: All right. And your reasons for not
15 being satisfied with Mr. Campbell?

16 THE DEFENDANT: Your Honor, my reasons for not
17 being satisfied with Mr. Campbell is that I have brought to
18 his attention not only the evidence covered up by David
19 Bungard, but the fact that under 61-7-7(a)(4) of West
20 Virginia state law, it says that a person who is
21 involuntarily committed to a mental institution should be
22 prohibited from owning a firearm provided that said person
23 is told that they are prohibited and to relinquish any
24 weapons.

25 I was never told, neither during the court hearing

1 which I believe is one of the sealed documents in the very
2 long and drawn out argument under *D.C. vs. Heller*, by Mr.
3 Bungard --

4 THE COURT: All right.

5 THE DEFENDANT: -- nor was I told in the order.
6 So I was never prohibited by state law.

7 THE COURT: All right. Your objections --

8 THE DEFENDANT: Under --

9 THE COURT: Just a second, Mr. Collins.

10 Your objection to Mr. Campbell is not unlike the
11 objection that you had with respect to Mr. Bungard in that
12 in plotting a strategy to represent you, and to do so
13 effectively, those lawyers were bound by this Court's
14 rulings, pre-trial rulings as to what evidence was and what
15 evidence was not admissible.

16 Mr. Campbell has been a lawyer, fortunately for those
17 of us in this state, for a long time. Mr. Campbell -- I am
18 personally aware of his ability, his competence. I have
19 seen him in court on numerous occasions. And I had, for
20 lack of a better word, the pleasure of watching him very
21 effectively represent you during the course of the trial and
22 the proceedings here, and to work within ethical guidelines,
23 and also to work within the facts of this case and to work
24 within the limitations that this Court placed on counsel by
25 virtue of the pre-trial rulings, which I stand by and

1 believe to be supported by case law.

2 And, so, there is no doubt, based on my ability to
3 watch Mr. Campbell, as I did Mr. Bungard, that you have had
4 effective representation in this case. And you have lodged
5 your objection. I asked you the question. You've indicated
6 "no."

7 But I do not intend to sit here this morning and have
8 you to go on and on about a lawyer who has given nothing but
9 honorable service to this court and to other courts
10 throughout the State of West Virginia.

11 The fact that you do not believe that -- or that you
12 have not been satisfied with his representation is noted on
13 the record and we'll proceed from there.

14 I find sufficient indicia of reliability to support the
15 probable accuracy of the information contained in the
16 Pre-Sentence Investigation Report and the addendum to that
17 report.

18 I, therefore, adopt those documents with the exception
19 of the information that I addressed in the ruling earlier
20 regarding obstruction. And I will direct the probation
21 office to file a copy of the Pre-Sentence Investigation
22 Report in the court file under seal.

23 Federal law provides the following maximum penalties,
24 Mr. Collins, for violating the statutes for which you have
25 been convicted:

1 A term of imprisonment of not more than 10 years as to
2 each count for a combined maximum of 20 years; a period of
3 supervised release of three years as to each count to be
4 served concurrently for a combined maximum of three years; a
5 fine of \$250,000 as to each count for a combined maximum
6 fine of \$500,000; restitution; a special assessment of \$100
7 as to each count for a combined special assessment of \$200.

8 I will advise you, Mr. Collins, that the United States
9 Sentencing Guidelines are advisory. They not binding on the
10 Court. The Court cannot presume, however, that a guideline
11 range is reasonable.

12 I am required to calculate and consider the applicable
13 advisory guideline range in your case. And I'm also
14 required to consider the sentencing factors set forth in 18,
15 U.S.C., Section 3553(a) in determining your sentence.

16 I'm going to begin this morning, Mr. Collins, by
17 calculating the applicable advisory guideline range.

18 Pursuant to Section 3D1.2(a) and (b), closely related
19 counts that involve the same victim and transaction or the
20 acts or in which the acts or transactions are connected by a
21 common criminal objective or constitute part of a common
22 scheme or plan are grouped together.

23 Mr. Collins was convicted of Count One of lying on a
24 federal firearms form in order to obtain and possess a
25 firearm in violation of Count Two as a person who had been

1 committed to a mental institution.

2 Because those two counts are connected by the same
3 criminal objective, the Court finds that they should be
4 grouped. Both counts result in the same adjusted offense
5 level in this case.

6 The relevant United States Sentencing Guideline is
7 found in Section 2K2.1 as to either count and it provides
8 for a Base Offense Level of 14.

9 I have found that Section 3C1.1, which provides for a
10 two-level increase if a defendant obstructed justice, is
11 applicable.

12 Again, the defendant willfully obstructed or impeded or
13 attempted to obstruct or impede the administration of
14 justice with respect to the investigation, prosecution, or
15 sentencing of the instant offense of conviction, and the
16 obstructive conduct related to the defendant's offense of
17 conviction and any relevant conduct or a closely related
18 offense.

19 I have, again, found that that applies. That brings
20 the offense level to 16. And, again, I note the defendant's
21 objection and exception.

22 The Total Offense Level is 16.

23 The defendant has six criminal history points which
24 establishes a Criminal History Category of III.

25 Given that combination, the advisory guideline range is

1 a term of imprisonment of 27 to 33 months; a period of
2 supervised release of one to three years; a fine of \$10,000
3 to \$95,000; restitution; and a special assessment of \$200.

4 Counsel, anything that either of you have to offer with
5 respect to the calculations I've given to Mr. Collins?

6 MR. LOEW: No, Your Honor.

7 MR. CAMPBELL: No, Your Honor.

8 THE COURT: Mr. Collins, you've heard me make
9 reference to Section 3553(a) of Title 18. That statutory
10 provision contains a number of factors that this Court must
11 consider in determining your appropriate sentence.

12 Specifically, by virtue of that provision, I'm required
13 to consider the nature and circumstances of your offense;
14 your history and characteristics; the need for the sentence
15 I impose to reflect the seriousness of the offense, to
16 promote respect for the law, to provide just punishment for
17 the offense; to afford adequate deterrence to criminal
18 conduct; to protect the public from further crimes committed
19 by you; and to consider the need for that sentence to
20 provide you with needed vocational and educational training,
21 medical care, or other corrective treatment in the most
22 effective manner.

23 I'm also instructed by Section 3553(a) to give
24 consideration to any pertinent policy statement that's in
25 effect on the date of your sentence; to consider the need to

1 provide restitution, if any, to any victims that there might
2 be; and to consider the need to avoid unwarranted sentence
3 disparities between you, Mr. Collins, and others who have
4 been convicted of the same or similar offense who have
5 similar history and similar characteristics.

6 I am also instructed by Section 3553(a) to consider the
7 kinds of sentences that are available. I will consider that
8 together with the applicable advisory guideline range and
9 these other 3553(a) factors as we go forward.

10 Counsel, I've reviewed your sentencing memoranda and I
11 will hear you on the record relative to the 3553(a) factors
12 at this time if you choose.

13 Mr. Loew.

14 MR. LOEW: Your Honor, before I start, may I
15 approach?

16 We've referred to this recorded conversation that the
17 defendant had with an inmate. And I know that it's been
18 included in other documents, but I'd like to include it as
19 an exhibit for the sentencing hearing. I've marked it as
20 Government Exhibit 1. And I've confirmed with counsel he
21 has a copy of this transcript.

22 THE COURT: All right.

23 Mr. Campbell, anything you want to place on the record
24 with respect to the exhibit?

25 MR. CAMPBELL: No, Your Honor, other than I think

1 the pertinent parts are in the Pre-Sentence Report and I'm
2 not sure that the entire report needs to go in.

3 I am sure, though, that what Mr. Loew has marked as
4 Exhibit 1 is the Whittamore transcript that I have.

5 THE COURT: All right.

6 MR. CAMPBELL: So, I mean, I don't object to what
7 he has. I just object to it coming in. I think it's just
8 adequately covered in the Pre-Sentence Report.

9 THE COURT: All right.

10 Mr. Loew, anything further?

11 MR. LOEW: May I approach?

12 THE COURT: Yes, sir.

13 Go ahead, sir.

14 MR. LOEW: Your Honor, an upward departure and
15 variance is appropriate in this case. The reasons are
16 interrelated and that's why the United States is treating it
17 both as a departure and a variance.

18 It's a departure because under the guidelines, his
19 violent criminal history is not adequately taken into
20 consideration in the calculation of his criminal history
21 score; and it's a variance because under the 3553(a)
22 factors, a variance is appropriate because of the history
23 and characteristics of the defendant and the need to protect
24 the public from future dangerousness.

25 So he clearly has a, a violent criminal history, often

1 directed at law enforcement officers, because of this theory
2 that he has that if people in authority don't agree with
3 things that he thinks should be done, that they have somehow
4 lost their cloak of authority and he can then assault them.

5 He reiterated that today to the Court. He justified
6 his assault on his prior counsel because he says his counsel
7 violated his rights by this big conspiracy in covering up
8 evidence, so that it was okay to assault him.

9 So he continues with the theory that he can be violent
10 towards people who he feels violate his civil rights.

11 So all the talk, really bizarre and violent talk from
12 the recorded conversation in custody is not mere talk, not
13 only because of his, his penchant for violence, but he
14 continues to think that he can have a gun. He thinks that
15 he has the right to have a gun. And he is not taking his
16 medicine.

17 It, it seems like the violence and the, the violent
18 behavior occurs when he doesn't take his medicine. And we
19 can't make him take his medicine, especially when he's not
20 in prison or on supervision.

21 So based on his violence, his continued violence, his
22 continued belief that it's okay to be violent, an upward
23 departure and variance is appropriate in this case, Your
24 Honor.

25 THE COURT: All right. Thank you, Mr. Loew.

1 Mr. Campbell.

2 MR. CAMPBELL: Well, Judge, briefly to address the
3 Whittamore transcript, the Government wants the Court to
4 look at that transcript and, and, and, and believe the words
5 that Mr. Collins says.

6 But the first thing that Mr. Collins says to
7 Mr. Whittamore is, "Don't believe me. I'm a liar. Whatever
8 you do, don't believe me here."

9 The Whittamore transcript also at the very end -- and I
10 pointed out in my memorandum -- where Mr. Collins tells
11 Mr. Whittamore, "You know, there are three options here.
12 You're fixated on this last option." And that last option
13 contained admissions of shooting himself.

14 The first two options have nothing to do with that.
15 The first two options -- there are page after page after
16 page in the document just admitted to the Court where, where
17 Mr. Collins goes on about his statutory rights and, and, and
18 information that he has gathered to show that Ms. Keller and
19 the Judge were guilty of violations of due process.

20 He, he goes on to talk about that he, that he's
21 collected all this information and that, that one of the
22 options would be -- before anything else would be to dump
23 all this information, that it would encompass Governor
24 Tomblin and other state officials.

25 So if, if, if the Government wants the Court to believe

1 every word in there, I would ask the Court to start with the
2 part where he says, "Don't believe a word I say. I'm lying
3 to you."

4 Secondly, Your Honor, I would ask the Court to stay
5 within the guidelines. If, if I'm correct, a level 16 would
6 be 27 to 33 months with his criminal history.

7 As of today, August 14th, he has served 17 months to
8 the day today. The high end of that category is 33. So he
9 could stay within the guideline area, and I would ask the
10 Court to do that.

11 A guideline sentence, Judge, would allow the Bureau of
12 Prisons, if, if they deem it proper, to designate perhaps
13 Lexington or Butner. It would not surprise me if, if that's
14 what the BOP does.

15 If he gets a within-guideline sentence, the upper end
16 being 33, he's got 17 in, that's 16 months, Judge. I know
17 there's some good time that comes off. But that would be
18 more than enough time for decisions to be made at either
19 Lexington or Butner.

20 Judge, just putting him in jail with, with everyone
21 else, it will certainly protect the public because he'll be
22 incarcerated, but it won't do any good long-term.

23 There's -- he, he needs, he needs the services at
24 either Lexington or Butner, and a within-guideline sentence
25 would take care of that. It would give him plenty of time.

1 I know that there -- I know in the Court's mind -- it
2 would have to be in the Court's mind, you know, Mr. Bungard.
3 But, again, if, if, if that case is being presented in the
4 Western District, I mean, I don't know why it would not
5 result in some sort of charge.

6 And if that's going to happen, just let him deal with
7 it there. Don't make him deal with it here or penalize him
8 here and then perhaps he gets penalized there.

9 So I just respectfully ask the Court to stay within
10 that guideline range. And I, I think that it will satisfy
11 all the factors that the Court needs to consider, the safety
12 of the public and everything else.

13 At some point, Mr. Collins will get out. At some
14 point, that will happen. And, and I would like for him to
15 get out after he goes to a place that can help him.

16 It won't do any good just, just I think to give him
17 years and years because, you know, like drug offenders,
18 Judge, if they go in an addict, they come out an addict
19 unless they get the treatment.

20 And I think that a within-guideline sentence will give
21 the Court, society, everybody enough time to evaluate what's
22 going on and to treat it.

23 Thank you.

24 THE COURT: Thank you, Mr. Campbell.

25 After reviewing the Pre-Sentence Investigation Report,

1 the, the sentencing memoranda offered by counsel, and
2 listening here today, I'll make the following findings
3 relative to the 3553(a) factors.

4 On April 10th, 2014, Ronald Collins was found to be
5 incompetent to stand trial and ordered committed to the
6 William R. Sharpe, Jr., Hospital for psychiatric evaluation.

7 His right to possess firearms was not restored. He
8 filed a civil suit related to his commitment alleging due
9 process violations which revealed that he was aware that he
10 had been involuntarily committed to a mental institution.

11 On January 6th, 2018, he went to a sporting goods store
12 seeking to purchase a firearm. He filled out ATF Form 4473.
13 One question asked, quote, "Have you ever been adjudicated
14 as a mental defective or have you ever been committed to a
15 mental institution?" Mr. Collins answered, "No."

16 Following a three-day delay for a background check,
17 Mr. Collins purchased a Walther, Model Creed, 9-millimeter
18 firearm. He posted videos of himself with the firearm,
19 including a video of himself firing the gun at a local
20 river.

21 On February 12th, 2018, an officer responded to a call
22 regarding a man carrying a rifle in Rainelle, West Virginia.
23 The defendant had a BB rifle as well as the 9-millimeter
24 firearm. The officer ran a criminal history and did not
25 find anything to prohibit Mr. Collins from possessing the

1 firearm and released him to his residence.

2 Later that afternoon, the officer followed up with the
3 ATF to determine whether Mr. Collins could legally possess
4 the firearm, and an ATF agent informed him that Mr. Collins
5 was a prohibited person because of his involuntary
6 commitment.

7 The officer obtained a warrant and conducted a search
8 of Mr. Collins's residence where he found the gun along with
9 ammunition for the 9-millimeter as well as ammunition for
10 other caliber weapons.

11 Mr. Collins gave a statement indicating that he
12 believed he legally possessed the firearm. Law enforcement
13 determined that the gun functioned as designed and had
14 traveled in interstate commerce.

15 Prior to trial, Mr. Collins expressed dissatisfaction
16 with his appointed attorney. Approximately a month after
17 the Court denied a request to withdraw as counsel, Mr.
18 Collins assaulted his attorney during a meeting. The Court
19 permitted the attorney to withdraw and new counsel was
20 appointed.

21 During a previous period of custody in November, 2013,
22 Mr. Collins was recorded speaking to another inmate. He
23 repeatedly discussed his ability to kill people, including a
24 state prosecutor and judge, how he would do it, his lack of
25 emotion in committing murder, and his belief that he has the

1 right to kill public officials if they abuse their position,
2 and that killing the prosecutor and the judge would be
3 legal.

4 He also discussed his belief that he had information
5 that would start a global scandal and would destroy the
6 careers of various officials, including the then Governor.

7 The defendant has prior convictions for battery on a
8 police officer, contributing to the delinquency of a minor,
9 simple assault on an employee of the United States,
10 destruction of property, obstruction of justice, possession
11 of marijuana, contempt of court, and various traffic
12 offenses.

13 He was born on June 11th, 1980, in Beckley, West
14 Virginia. He has no siblings and his father is deceased.
15 He maintains a close relationship with his mother and lived
16 with her in Rainelle, West Virginia, prior to his
17 incarceration.

18 He has lived in the Southern District of West Virginia
19 for most of his life apart from a period in North Carolina
20 from 1999 to 2011 and an overseas deployment to South Korea
21 from 2002 to 2005.

22 He has high blood pressure and low blood sugar and is
23 allergic to several medications and foods. He has been
24 diagnosed with bipolar disorder, insomnia, intermittent
25 explosive disorder, alcohol abuse, mood disorder, and

1 personality disorder with predominant borderline and
2 antisocial traits. His medical and psychiatric records
3 indicate a history of suicidal and homicidal ideation.

4 He indicates that he has chosen not to take prescribed
5 medication for his mental health condition since his
6 detention.

7 Mr. Collins experimented with marijuana in high school
8 and drank heavily while in the Army, but there is no
9 indication of more recent substance abuse.

10 He graduated high school and has a certificate in
11 collision repair. He has received disability since 2008
12 because of his diagnosed bipolar disorder. He was in the
13 military from 2001 to 2005 and was honorably discharged.

14 He indicates that he joined the Army reserves after his
15 discharge but received a general discharge after being
16 charged with criminal offenses in 2006.

17 His net worth is negative by more than \$8,000.

18 Counsel, the Court is giving consideration to an upward
19 variant sentence. Do either of you need additional time to
20 prepare?

21 MR. LOEW: No, Your Honor.

22 MR. CAMPBELL: No, Your Honor.

23 THE COURT: Let me ask you lawyers, is there
24 anything further that either of you have to state prior to
25 the Court imposing sentence?

1 MR. LOEW: No, Your Honor.

2 MR. CAMPBELL: No, Your Honor, just, just one
3 thing.

4 The -- most of the assaults and violent conduct that
5 you've talked about happened within a three-year period
6 after his release from the Army. There have certainly been
7 things since then, but most of the violent activities were
8 concerned in that three-year period.

9 He did serve within literally miles of the
10 de-militarized zone, the border between North Korea and
11 South Korea. And when he was there, we weren't on the
12 friendly terms I guess that we are now.

13 So he has -- he, he was in the Army. He served
14 honorably. He had no problems in there. And I'd like the
15 Court to take that into consideration.

16 THE COURT: Mr. Collins, anything that you want to
17 state relative to your sentence before this Court imposes
18 sentence?

19 THE DEFENDANT: Your Honor, there's actually quite
20 a bit I want to say.

21 THE COURT: And your comments should be directed
22 towards your sentence.

23 THE DEFENDANT: I, I'm, I'm aiming that direction,
24 Your Honor. I'm just trying -- give me a moment to frame my
25 thoughts.

1 Basically, Your Honor, at this point in my life, I
2 spend most of my time taking care of my mother. I haven't
3 been around to take care of her in 17 months.

4 The reason I haven't taken medication in jail is
5 because I don't need it. The, the medication regime for
6 bipolar disorder, also known as manic depression, varies
7 between moments of depression and moments of mayhem,
8 basically being hyper and feeling good and then feeling bad
9 and low after. I'm more manic than I am depressive.

10 But to take a drug in jail when I'm already in a
11 psychological and emotionally depressed state is just going
12 to drive me into depression. It's not going to treat my
13 bipolar disorder. It's not going to treat what I'm
14 suffering from at the moment. It's just somebody giving me
15 something because a doctor gave it to me once before and I
16 haven't seen a doctor to have it changed. And that's
17 basically what they're going off of.

18 In my treatment with the VA Hospital, my doctor is
19 aware that there will be times that rather than taking drugs
20 to bring me back up from a depressed state, that it's just
21 easier for me to take a drug that keeps me from being manic.

22 And then when I fall into that depressed state because
23 I fall into it as a depressed state because I haven't gotten
24 as manic, I don't need to take any drugs that kind of pump
25 me back up.

1 And as you'll note on my PSI, I've passed every drug
2 test I've ever been given. I don't do drugs. I don't like
3 taking chemicals to alter the way I feel. And I'm very
4 sensitive to the medication.

5 So I don't want the Court to think that because I
6 didn't take medication at the VA it's because I wasn't
7 seeking treatment. It was simply because I have a standard
8 of treatment at the VA Hospital that wasn't being met by the
9 regional jail.

10 And other than the fact that, you know, the -- Mr. Loew
11 talked about how I believe I still have a right to own a
12 gun. Well, that's not exactly true. I still feel I should
13 have a right to own a gun because I don't believe I got a
14 fair hearing in court.

15 That being said, I have a right to due process, Your
16 Honor, and I do understand that. And the whole point of due
17 process is that because I don't agree with the Court, I have
18 a process to go through to appeal and everything else.

19 You know, they -- the Whittamore transcript was taken,
20 for one, in violation of my Fifth and Sixth Amendment rights
21 when I was facing another charge in jail. That person
22 questioned me about those charges in jail.

23 The only way that I could prove that I was being
24 questioned in violation of my Fifth and Sixth Amendment
25 rights was to have that conversation with them. So I said

1 some off-the-wall stuff and I admit that.

2 That's the whole purpose of me saying, "Don't trust me,
3 I'm a liar," at the beginning because he does a complete 180
4 after telling me he doesn't know if he can trust me. I say,
5 "Don't trust me. I'm a liar." "Oh, I trust you. I believe
6 everything you say." And I reiterate, "Don't trust me, I'm
7 a liar," because that was the only way I could prove it in
8 that case.

9 Now, that evidence was never used in any criminal case
10 except this one and it was used out of context. It was
11 taken in violation of my civil rights in the State Court
12 case in which it was involved.

13 Beyond that, Your Honor, I think I've pretty much said
14 everything I have to say in regards to that, but I do have a
15 question. Why did you cut me off when I said that I had an
16 issue with my attorney because I felt like he violated
17 Federal Code 18, U.S.C., 927 by not acknowledging the, the
18 state's standard for prohibiting me from owning a firearm?

19 THE COURT: Do you have anything further regarding
20 your sentencing, Mr. Collins?

21 THE DEFENDANT: That is part of my sentencing,
22 Your Honor. That was part of --

23 THE COURT: I'm not going to answer the question.
24 So unless you have something further regarding your
25 sentencing, we'll proceed.

1 THE DEFENDANT: No, Your Honor.

2 THE COURT: All right. Thank you, Mr. Collins.

3 After giving consideration to the Pre-Sentence
4 Investigation Report in this case, having listened to the
5 evidence at the trial in this matter, reviewing the parties'
6 sentencing memoranda, listening to the statements which have
7 been made here today, and giving consideration to the
8 Section 3553(a) factors, Mr. Collins, it's the judgment of
9 this Court that you be committed to the custody of the
10 Federal Bureau of Prisons for a term of 60 months to be
11 followed by a term of three years of supervised release with
12 the first six months to be served at Dismas Charities and,
13 as a condition, that you attend out-patient mental health
14 services through the VA or other provider.

15 Within 72 hours of your release from custody, it's
16 ordered that you report in person to the United States
17 Probation Office in the district in which you are released.

18 While you're on supervised release, Mr. Collins, you
19 must not commit another federal, state, or local crime. You
20 must not possess a firearm or other dangerous device. And
21 you must not unlawfully possess a controlled substance.

22 You also must comply with the standard terms and
23 conditions of supervision as recommended by the United
24 States Sentencing Commission and as adopted by this Court,
25 including the special condition that you submit to a test or

1 evaluation for physical and mental health.

2 In addition, I'm ordering that you comply with the
3 standard conditions of supervision adopted by the Southern
4 District of West Virginia in Local Rule of Criminal
5 Procedure 32.3.

6 I find that you do not have the resources to pay a fine
7 and, therefore, I'm not imposing a fine.

8 There's no identifiable victim here and, therefore,
9 this Court makes no order of restitution.

10 I do order that you pay a special assessment of \$200
11 due immediately. And the Court orders that the special
12 assessment be paid in quarterly installments of no less than
13 \$25 during your term of imprisonment. And any amount
14 remaining once you are released is to be paid in full within
15 90 days of your release.

16 Mr. Collins, after giving consideration to the
17 applicable advisory guideline range in your case, to the
18 3553(a) factors, I find that this sentence, which is above
19 the applicable advisory guideline range, of 60 months to be
20 followed by three years of supervised release with the first
21 six months to be served at a halfway house with out-patient
22 mental health treatment, is reasonable and appropriate.

23 You deliberately lied on a federal firearms form to
24 mislead the firearms dealer and obtain a weapon you were not
25 legally permitted to possess.

1 As a person who had been involuntarily committed to a
2 mental institution, federal law, of course, prohibited you
3 from possessing a firearm. Your disagreement with the law
4 does not excuse you from the obligation to follow it. Your
5 disagreement with the decision to involuntarily commit you
6 to a mental institution likewise does not excuse you from
7 following the law.

8 Far from accepting responsibility, you have maintained
9 throughout these proceedings that you have the right to have
10 a gun and that you did nothing wrong by lying on the
11 firearms form in order to get that gun.

12 You now have two felony convictions, Mr. Collins, which
13 places you in the second category of people prohibited from
14 possessing firearms. If you again possess a firearm, you
15 will be committing another felony offense.

16 Sentences for repeat offenders tend to increase. I
17 want you to understand with no doubt or question in your
18 mind that regardless of your opinion about the proceedings
19 or the previous proceedings, and regardless of your opinion
20 about the law, you cannot legally possess a firearm.

21 In determining that a sentence above the guidelines is
22 necessary, I've carefully considered your history and your
23 background. Both your criminal record and your mental
24 health history reflect violent ideation, threatening
25 behavior, and a lack of respect for the law and for people

1 involved in law enforcement.

2 Your history and background suggests that you pose a
3 substantial danger to the public. You have talked about
4 murdering police officers, judges, and prosecutors. Your
5 continuing interest in possessing weapons is extremely
6 concerning in light of those past statements.

7 Most disturbing is that your statements then, your
8 conduct with your previous attorney, and your conduct and
9 statements with respect to this case, the videos I
10 received -- I reviewed on the suppression motion evidence a
11 continued, and your statements here today, a still present
12 belief that you do not have to follow the law.

13 I find that a sentence above the applicable guideline
14 range is necessary to deter you to the extent that
15 deterrence is possible and to protect the public.

16 I find that your comments today when you spoke about
17 what happened with Mr. Bungard and how he violated your
18 rights is continuing evidence of your belief that if people
19 do not act in the way that you think that they should or
20 expect, then violence is an appropriate response.

21 I find that this sentence, quite frankly, Mr. Collins,
22 is the lowest sentence that may be sufficient to meet the
23 goals of sentencing under Section 3553(a). And I would
24 impose it even given a lower guideline range.

25 In other words, even if your conduct in assaulting your

1 appointed counsel was not obstruction of justice -- and it
2 is not my intent to sentence you for any offense of
3 obstruction, but for -- I do find that the enhancement is
4 appropriate.

5 Even if that were not the case and you had a lower
6 offense level, I would still find this sentence necessary
7 given your conduct, your history, and what I believe to be
8 the very high risk of recidivism after my thorough
9 consideration of all of the 3553(a) factors.

10 Again, I emphasize it is important to note that even as
11 recently as today you have indicated a defense to an assault
12 based on the fact that you disagree with how a person, your
13 lawyer at the time, was proceeding.

14 You have chosen not to take medication and you've
15 explained that here on the record. I am, however, going to
16 recommend that you be screened for mental health needs and
17 placed in the facility best able to meet those needs.

18 I've also required, Mr. Collins, a stay in a halfway
19 house after your release with out-patient mental health
20 treatment to ensure that you have some stability and
21 supervision after your release and can re-establish
22 treatment relationships. If in-patient treatment appears
23 necessary, your probation officer will be able to arrange
24 for that.

25 I've also considered Mr. Campbell's argument. You

1 served in the military from 2001 to 2005. And I've given
2 consideration to that service.

3 He has also made an argument here today that any
4 variant sentence would not satisfy the issues that you
5 present long-term; that locking you up will not ultimately
6 deal with the issues that have helped to bring you here.

7 Having considered the 3553(a) factors, again I think
8 this sentence is appropriate. And I am trying to ensure
9 that you get some mental health treatment prior to your
10 actual release, although I have to be candid with all of you
11 here today. I'm not convinced that any steps that I take
12 are necessarily going to promote deterrence for you as long
13 as you believe that you have a right to strike out against
14 people with violent behavior if they do not do what you
15 consider to be appropriate.

16 Your lawyer argued that some of the conversation with
17 another inmate is misleading because you discussed murdering
18 a prosecutor and a judge as a third option, not as your
19 preferred course of action.

20 When I look at that and I hear that argument, the
21 problem that your lawyer, who has been a very effective
22 advocate on your part, has in making that argument is that
23 you determine whether or not you believe those first two
24 options have been satisfied.

25 And if you believe that they don't -- as recently as

1 today you defend your conduct based on the fact that people
2 do not respond in the way that you think is appropriate --
3 you then believe that you are justified in reacting in a
4 violent way.

5 Your belief that if you do not get your way in legal
6 proceedings that you are entitled to resort to violence or
7 murder is not one that can be rationalized or mitigated.
8 That pattern, again, carried through with your assault on
9 your attorney when he did not adopt your preferred legal
10 strategy based on rulings that this Court had made.

11 If you do not want to end up back in prison,
12 Mr. Collins, you will need to learn to live with the rules
13 of society even when you believe that they are unfair.
14 Believe it or not, that's something that we all do.

15 Having considered your history and characteristics, I
16 find this sentence is sufficient and, yet, not greater than
17 necessary to meet the goals of sentencing.

18 I specifically find that a sentence within the
19 applicable guideline range would not be sufficient,
20 particularly for the need to protect the public.

21 This sentence reflects the seriousness of the offense,
22 provides just punishment, and it should promote respect for
23 the law. It should deter you and others from committing
24 similar crimes in the future.

25 I want to place on the record as I indicated that it

1 should promote respect for the law, you shook your head.
2 Right up until this time, you insist that if people do not
3 act in the way that you think that they should, you do not
4 have to follow the law.

5 THE DEFENDANT: That's not why I --

6 THE COURT: It will also protect the public from
7 further crimes committed by you.

8 You'll have access to mental health treatment,
9 healthcare, and substance abuse treatment if it's needed.
10 And I find the sentence avoids unwarranted sentence
11 disparities between you, Mr. Collins, and others committed
12 of the same or similar offense who have similar history and
13 similar characteristics.

14 You have a right to appeal this Court's sentence,
15 Mr. Collins. If you want to appeal, you must file a written
16 notice of appeal with the clerk within 14 days of the
17 clerk's entry of my order of sentence and judgment. If you
18 fail to file it during that time period, your right to
19 appeal will expire.

20 Do you understand that?

21 THE DEFENDANT: I do, Your Honor.

22 THE COURT: If you file such a notice and the
23 Court finds that you don't have the money to procure
24 transcripts or other documents necessary to effect your
25 appeal or to pay for the services of an attorney, those

1 costs will be borne by the United States.

2 Do you understand that also?

3 THE DEFENDANT: I do, Your Honor.

4 THE COURT: Mr. Collins, your sentence is a final
5 judgment. I can't reduce it, change it, modify it in any
6 way unless the Director of the Bureau of Prisons makes such
7 a request or unless the Government files a motion pursuant
8 to Rule 35 for substantial assistance. So letters written
9 to me asking me to reduce it or change it would be of no
10 consequence.

11 Do you understand that as well?

12 THE DEFENDANT: I do, Your Honor.

13 THE COURT: Mr. Campbell, are there additional
14 motions?

15 MR. CAMPBELL: Your Honor, several things.

16 The -- Mr. Collins had filed a -- what he called a
17 notice of appeal from the denial of the post-trial motions
18 that I made, motion for judgment of acquittal and motion for
19 a new trial.

20 The clerk here said it was a notice of appeal. They
21 treated it as a notice and they sent documents to the Fourth
22 Circuit.

23 The Fourth Circuit corresponded with the clerk here and
24 said, you know, this is not a judgment from the final order,
25 but what we will do is the day the final order is entered,

1 we'll docket the notice of appeal. If, if I am listed as
2 counsel, they will assign the appeal to me.

3 Two things. A week from tomorrow I leave for Alaska.
4 So I'm going to be out of town until September 3rd. And
5 that 14-day clock probably will have run.

6 So I would either -- so I'm asking this, Judge. I'd
7 like to withdraw. Mr. Collins doesn't want me.

8 THE COURT: Your motion is granted, Mr. Campbell.

9 MR. CAMPBELL: Thank you. Well, then, that will
10 take care of the problem because then there will have to be
11 new counsel appointed I assume and, and I am worried about
12 this 14-day period --

13 THE COURT: I understand.

14 MR. CAMPBELL: -- because he's already filed it.
15 So if you enter the order today, tomorrow is going to be day
16 one and I'll be gone. But -- so if the Court -- I want his
17 appellate rights to be preserved. And you've granted my
18 motion to withdraw, but if we get somebody else in the
19 case -- I know that the panel is starting an appellate
20 group.

21 THE COURT: I will see to it that he is appointed
22 effective counsel.

23 MR. CAMPBELL: Thank you, ma'am.

24 THE COURT: Anything further?

25 MR. CAMPBELL: No, ma'am.

1 THE COURT: Mr. Loew.

2 MR. LOEW: No, Your Honor.

3 THE COURT: I'll remand the defendant to the
4 custody of the United States Marshal.

5 (Proceedings concluded at 11:12 a.m.)

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12 I, Lisa A. Cook, Official Reporter of the United
13 States District Court for the Southern District of West
14 Virginia, do hereby certify that the foregoing is a true and
15 correct transcript, to the best of my ability, from the
16 record of proceedings in the above-entitled matter.

17

18

19 s\Lisa A. Cook

August 19, 2019

20 Reporter

Date

21

22

23

24

25