

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHWESTERN DIVISION

UNITED STATES OF AMERICA,

CASE NO.: 1:14-CR-170

Plaintiff,

DEFENDANT'S SENTENCING
MEMORANDUM

vs.

JESSIE MARIE GRANT,

Defendant.

INTRODUCTION

Jessie Marie Grant, hereinafter referred to as Grant, was charged in a One Count Indictment alleging that she assaulted a federal officer in violation of 18 U.S.C. § 111(a)(1). She made her initial appearance before the Magistrate Judge on December 5, 2014, and was released to the Bismarck Transition Center. Grant entered a plea of not guilty to the charge on December 5, 2014.

On May 17, 2015, she was terminated from the Bismarck Transition Center as a result of several violations. She was ordered detained and is currently in the Heart of America Correctional and Treatment Center in Rugby, North Dakota.

On March 3, 2015, Grant appeared before US District Judge Daniel Hovland and entered a plea of guilty to the charge. The Court ordered that a Presentence Investigation Report be prepared. Sentencing is currently scheduled for June 22, 2015, at 11:00 a.m. before US District Judge Daniel Hovland.

MEMORANDUM

As this Court knows, since the Supreme Court's decision in *United States v. Booker*, 543 U.S. 220 (2005), sentencing court's must still consider the commissions guidelines and policy statements but are not required to follow them. The guidelines are just one of the many sentencing factors to be considered under 18 U.S.C. § 3553(a) along with the nature and circumstances of the offense, the history and characteristics of the defendant, the kinds of sentences available, the need to avoid unwarranted sentencing disparities and to provide restitution. The only restriction 3553(a) places on the sentencing court is the requirement that the Court "impose a sentence sufficient, but not greater than necessary" to achieve a specific set of sentencing purposes. Those sentencing purposes require that the sentence (1) reflect the seriousness of the offense, promote respect for the law and provide just punishment for the offense, (2) afford adequate deterrence to criminal conduct, (3) protect the public from further crimes of the defendant, and (4) provide the defendant with needed education or vocational training, medical care, or other correctional treatment in the most effective manner. Beyond these requirements, and the procedural requirement that the Court give reasons for the sentence it selects, the Sentencing Reform Act, as modified by *Booker*, places few restrictions on the sentence a Court may impose within the limits of the statute of conviction. The sentence the Court chooses is subject to appellate review only for "unreasonableness".

The Court also must keep in mind that the issue of "reasonableness" as required under 18 U.S.C. § 3742(e) requires that the sentence, whether inside or outside the guideline range, must be reviewed for abuse of discretion. *Gall v. United States*, 552 U.S. 38 (2007); *Kimbrough v. United States*, 552 U.S. 85 (2007); and *Rita v. United States*, 551 U.S. 338 347 - 51 (2007).

Assuming the Court factors these in, the Court has directed that the guidelines, while a starting point, are no longer required consideration by the Court. It appears that Grant has no criminal history and is there for a base offense level of 17. With a three level reduction for acceptance, her advisory sentencing guideline range is 15 - 21 months. The undersigned requests that the Court impose a sentence of 15 months and direct that Grant be given credit from and after March 17, 2015, up to and including the date of sentencing, June 22, 2015, a period of approximately three months. Grant further requests that the Court consider placing her at a facility in North Dakota, either the Stutsman County Detention Center in Jamestown, the Lake Region Community Center in Devils Lake or the facility in Dickinson, with full work release privileges. There is no question that Grant can and should benefit from getting treatment for drug and alcohol use. The undersigned believes that such conduct will certainly promote a better understanding for Grant of issues that resulted in giving rise to the charges.

As the Court understands, the Special Assessment of \$100 should be imposed. Grant requests that no fine be imposed, and that a period of supervised release of no more than three years be imposed with whatever standard and special conditions the Court feels appropriate. If the Court feels that Grant should be placed in a facility, Grant requests that the Court recommend that she be placed at the women's facility in Waseca, Minnesota.

CONCLUSION

Grant believes that a sentence at the low end of the advisory range, 15 months, with credit for time served is, in fact, a sentence that is sufficient, but not greater than necessary. Grant requests that the Court impose a sentence of 15 months and with credit, requests that the Court impose a sentence of a year and one day to ensure that Grant will earn her good time. Grant

further requests that the Court recommend that she be kept in North Dakota. If the Court is unwilling to do this, Grant requests that she be placed at the Women's facility in Waseca, Minnesota. Grant requests that the Court impose no fine, impose the \$100 Special Assessment, and three years of supervised release with whatever standard and special conditions the Court feels are necessary. These requirements address all of the 3553(a) factors, and in fact, constitute a sentence that is "sufficient, but not greater than necessary" one that addresses all of the 3553(a) factors and more importantly, addresses the specific factors set forth in 3553(a).

Dated this 12th day of June, 2015.

Respectfully submitted,

NEIL FULTON
Federal Public Defender

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CERTIFICATE OF SERVICE

I hereby certify that on June 12, 2015, the following document(s):

Defendant's Sentencing Memorandum

were filed electronically with the Clerk of Court through ECF, and that ECF will send a Notice of Electronic Filing (NEF) to the following:

Gary Delorme
gary.delorme@usdoj.gov

I further certify that copy of the foregoing documents and the Notice of Electronic Filing will be mailed first class mail, postage paid, to the following non-ECF participants:

/s/William D. Schmidt

William D. Schmidt,
First Assistant Federal Public Defender