

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF IOWA  
EASTERN DIVISION

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, ) Number CR 15-1030  
 )  
 v. )  
 ) SENTENCING MEMORANDUM  
 THOMAS A. MUNSON, )  
 )  
 Defendant. )

DEFENDANT’S SENTENCING MEMORANDUM

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**I. INTRODUCTION**

The Defendant notifies the court, the United States and the United

States Probation Office of the following:

A. Witnesses

The Defendant may call the Defendant's wife, Linda Munson, to testify as a witness at the sentencing hearing in this matter, and reserves the right to call rebuttal witnesses.

B. Exhibits

The Defendant anticipates offering correspondence from The Reverend Mr. William F. Gentry II, Ginny LeHew Kasten, and other family members and friends. Those exhibits will be filed as they are received by counsel. The Defendant will also offer representative examples of the media coverage surrounding his prosecution. The Defendant reserves the right to offer additional exhibits responsive to or in rebuttal of exhibits offered by the government at the Defendant's sentencing hearing.

C. Issues to Be Resolved at the Sentencing Hearing

1. Whether the Defendant should be granted a downward variance pursuant to 18 U.S.C. § 3553(a). The parties have reached a joint sentencing recommendation which resolves the guideline issues. To the extent it is deemed necessary, the Defendant has filed a motion for downward variance.

**II. SENTENCING ISSUES**

A. Nature and Circumstances of the Offense. The

circumstances surrounding the offense are aptly described in the plea agreement.

B. History and Characteristics of the Defendant. Thomas Munson was born in Topeka, Kansas in August, 1939, and married his wife, Linda (nee LeHew) in Dodge City, Kansas in August, 1961. A graduate from Washburn University in Topeka, Kansas, Mr. Munson obtained a bachelor's degree in English and History in 1962, and in that same year began work as a state social worker for Pawnee County, Kansas, in Larned, Kansas. His oldest daughter, Gretchen, was born in Larned in September, 1962.

In the fall of 1963, Mr. Munson attended graduate school at Kansas State University, attending with the help of a National Defense Education Act fellowship. In July, 1964, he took a federal employment placement examination, requesting consideration for employment with the National Park Service. Following an interview at the Hot Springs National Park in Oklahoma, Mr. Munson was offered a position as an administrative assistant at the Navajo National Monument in north central Arizona on the Navajo Indian Reservation. The Navajo National Monument served as a protective enclave for three cliff dwellings located near a trading post, and included a settlement with a Bureau of Indian Affairs school and a park service headquarters which included four residences (one of which was occupied by Mr. Munson and his young family), a visitor center, hogan, horse corral, and a maintenance building. As an

administrator at the Navajo National Monument, Mr. Munson's duties included providing reports required by the Southwest Regional Office and other levels of management; providing fiscal control and accounting for operational funding and planning for future operations; and providing counsel to the superintendent for personnel affairs and policy. During the superintendent's absence, Mr. Munson served as acting superintendent, and conducted visits to other remote cliff dwellings and historic sites, many reached only by horseback. In addition, Mr. Munson interacted with the visiting public, conducted tours to Native American ruins, and assisted permanent employees in providing services to the public. Of special note, several Navajo employees spoke no English, and Mr. Munson took advantage of the help from bilingual Navajo employees to learn Navajo language and culture.

In July, 1966, the Munson's second daughter was born in Monument Valley, Utah, at a mission hospital located near a trading post northeast of the monument's headquarters. In 1967, in keeping with the aims of the National Park Service, Mr. Munson qualified for a historian position in addition to his management and administrative posts.

In mid-1967, Mr. Munson was offered a transfer to a newly-established historic site at Fort Larned National Historic Site as an administrative officer. Having lived in the nearby town of Larned, Kansas, Mr. Munson was deemed

especially well-suited for the position by the Superintendent who was also a native of the area. The fort itself was established at the outbreak of the Civil War to protect Union interests and to safeguard the commercial traffic along the Santa Fe Trail. At the conclusion of the Civil War, the fort housed the offices of the “Indian Agency” for five Plains tribes.

In addition to serving as the principle administrative officer, Mr. Munson also functioned in an interpretive role along with his administrative duties. When the Superintendent retired, Mr. Munson was promoted to management assistant, assuming responsibility and authority to approve most personnel, fiscal, and operational decisions. Mr. Munson also worked closely with the local historical society, which continued its operations at the fort. The fort itself – in a rare public/private arrangement – was owned by one of the society’s members. Because of his success in working with these private concerns, Mr. Munson received a superior performance award for facilitating the transfer of items associated with the fort’s history to the National Park Service.

In February, 1971, Mr. Munson was again offered a promotion to GS-11 Superintendent at Effigy Mounds National Monument. A natural progression along the management career path, the promotion was accepted and Mr. Munson began training assignments to widen his experience, including programs on personnel reassignments, operation evaluations, hosting region-wide events, and

attending national conferences. In his work as superintendent, Mr. Munson collaborated closely with local archaeologists at Luther College and the University of Iowa to complete surveys and to maintain a National Park Service presence. He approved all permits for special uses, and traveled to Washington, D.C. as required to attend congressional hearings and to advise the Director and Washington Office personnel as requested. He retired from the National Park Service in May, 1994.

Having grown up with, gone to school with, and befriended many Native Americans, lived with and raised his children with tribal members, Mr. Munson has worked much of his professional life navigating the sometimes conflicting demands for protecting Native American heritage and at the same time affording public access to sacred Native American sites. Those who know him most intimately attest to this dedication, and the pain – both personal and professional – Mr. Munson feels for those who entrusted him to safeguard their sacred remains. Against this backdrop of devotion to cultural preservation, the intense publicity surrounding this investigation and resulting prosecution has inflicted on Mr. Munson a significant and lasting wound.

In compliance with the plea agreement in this matter, Mr. Munson has furnished government counsel with a written apology to the victims of his offense, and will additionally provide a videorecording of him delivering the apology.

The Defendant's Health and the Impact of Imprisonment. As detailed in

the presentence investigation report, Mr. Munson has a long history of poor health, including recent diagnoses of mitral valve insufficiency, tricuspid valve insufficiency, and persistent atrial fibrillation. In addition, he has been evaluated for mild cognitive impairment and is currently being treated for congestive heart failure and pleurisy. Given his coronary disease and breathing problems, it is sometimes difficult for him to even walk across a room without stopping to catch his breath. At the time the government and Mr. Munson reached their sentencing stipulation, it was believed that Mr. Munson could withstand the agreed upon period of confinement. At sentencing, counsel will provide the court and government counsel with the most current assessment of Mr. Munson's health. In any event, a term of confinement more severe than that foreseen by the parties is unnecessary and would be unduly damaging to both the interests of justice and the Defendant's welfare.

C. The Need for the Sentence Imposed and Sentencing

Recommendation. The parties believe that in reaching the joint sentencing recommendation they have taken into account all the relevant sentencing factors, including those summarized in this memorandum. It is respectfully urged that the recommended disposition is sufficient, and no greater than necessary, to achieve a just disposition.

/s/ Leon F. Spies  
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CERTIFICATE OF SERVICE

I certify that I electronically served/mailed a copy of the foregoing document to which this certificate is attached to the parties or attorneys of record, shown below, on June 24, 2016  
By: /s/ Leon F. Spies

Mr. Forde Fairchild (electronically)  
Assistant United States Attorney

Mr. Thomas Munson (U.S. Mail)