



IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA	)	
	)	
v.	)	Criminal Number 1:08MJ88
	)	
WEISS RASOOL,	)	
	)	
Defendant	)	

POSITION OF THE UNITED STATES WITH RESPECT TO SENTENCING FACTORS

The United States of America, in accord with 18 U.S.C. § 3553(a) and the United States Sentencing Guidelines, files this Position of the United States With Respect to Sentencing in the case of Weiss Rasool. The United States agrees with the calculations of the sentencing guidelines (0-6 months) in this case completed by the United States Probation Office. The United States has represented to the defendant that it will not request that the defendant be incarcerated. The United States therefore defers to the Court as to an appropriate sentence within the guideline range as determined by the Court in light of the sentencing factors identified in Section 3553.

Even though the Sentencing Guidelines are advisory, *United States v. Booker* provides that sentencing courts “must consult those Guidelines and take them into account when sentencing.” 543 U.S. 220, 125 S. Ct. 738, 767 (2005). “[A] district court shall first calculate (after making the appropriate findings of fact) the range prescribed by the guidelines. Then, the court shall consider that range as well as other relevant factors set forth in the guidelines and those factors set forth in [18 U.S.C.] § 3553(a) before imposing the sentence.” *United States v. Hughes*, 401 F.3d 540, 546 (4th Cir. 2005).



Section 3553 states that the court should consider the nature and circumstances of the offense and characteristics of the defendant. In addition, it states that the court must consider other factors, including the need for the sentence “to reflect the seriousness of the offense, to promote respect for law, and to provide just punishment for the offense; [and] to afford adequate deterrence to criminal conduct.” 18 U.S.C. § 3553(a)(2)(A) & (B).

The sentence imposed must meet a standard of reasonableness, *see Booker*, 125 S. Ct. at 765, and as the Fourth Circuit has recently stated, “reasonableness is not measured simply by whether the sentence falls within the statutory range, but by whether the sentence was guided by the Sentencing Guidelines and by the provisions of § 3553(a).” *United States v. Green*, 436 F.3d 449, 456 (4th Cir. 2006). That being said, a sentence imposed within the properly calculated Sentencing Guidelines range is presumptively reasonable. *Id.* A district court’s reasons for not applying the properly calculated Sentencing Guidelines range must be based on the statutory sentencing factors. *Id.*

On January 31, 2008, the defendant pled guilty to Unauthorized Computer Access in violation of 18 U.S.C. § 1030 (a)(2)(B) and (c)(2)(A). On June 10, 2005, the defendant provided information to an individual about three cars reported by the individual to be following him. The defendant was not authorized in any way to access information from NCIC on those three cars. The defendant did not have a legitimate law enforcement reason to run those tags or provide that information to the individual requesting it. The defendant advised the individual that the cars came back to a leasing company. The defendant, through his experience with the police, had a basis to believe that the leasing company was used for federal law enforcement vehicles, but despite that, relayed the information to the individual. The defendant also checked his name and other names multiple times in NCIC without a legitimate law enforcement purpose to do so and



to see if he or others he was acquainted with were listed on the Terrorist Watch List.

The defendant's actions damaged the integrity of the NCIC system and jeopardized at least one federal investigation. The defendant's actions could have placed federal agents in danger. The FBI has had to undo the harm caused by the defendant. Moreover, the defendant's misuse of the NCIC system undermined the Violent Crime and Terrorist Offender File, a system put in place to assist in the investigation of possible terrorists. The sentence in this case should send a clear message that law enforcement officers cannot abuse their access to sensitive information intended to protect the public. In this case, a sentence in the advisory guideline range will promote a respect for the law and deter this defendant and others from engaging in misuse of this system and the information generated by it.

Respectfully submitted,

Chuck Rosenberg
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By:

/s/

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CERTIFICATE OF SERVICE

I hereby certify that on the 6th day of April, 2008, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send a notification of such filing (NEF) to the following:

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/s/

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