

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

MARY ELIZABETH WORKMAN,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

ON PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

Whether the district court violated Ms. Workman's due process rights when the court vindictively resentenced her to a longer term of imprisonment with nine additional supervised release conditions after Ms. Workman successfully appealed her initial sentence.

PARTIES TO THE PROCEEDINGS BELOW

Petitioner, who was the Defendant-Appellant below, is Mary Elizabeth Workman. Respondent, who was the Plaintiff-Appellee below, is the United States of America.

RELATED CASES

United States v. Mary Elizabeth Workman, No. 25-4507, United States Court of Appeals for the Fourth Circuit. Opinion and Judgment filed Apr. 21, 2026.

United States v. Mary Elizabeth Workman, No. 5:23-CR-00195-1FL, United States District Court for the Eastern District of North Carolina. Amended Judgment filed Sep. 3, 2025.

United States v. Mary Elizabeth Workman, No. 24-4658, United States Court of Appeals for the Fourth Circuit. Order Granting Motion to Remand and Judgment filed Feb. 20, 2025.

United States v. Mary Elizabeth Workman, No. 5:23-CR-00195-BO-BM-1, United States District Court for the Eastern District of North Carolina. Judgment filed Dec. 5, 2024.

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CITATION OF PRIOR OPINION

The United States Court of Appeals for the Fourth Circuit decided this case in an unpublished per curiam opinion issued on April 21, 2026. The opinion appears at Appendix 1a-5a.

JURISDICTIONAL STATEMENT

This petition seeks review of an opinion affirming petitioner's sentence imposed at resentencing following her conviction for wrongfully obtaining government benefits, in violation of 18 U.S.C. § 641.

The Fourth Circuit filed the opinion and judgment on April 21, 2026. This petition is being filed within the time permitted by the Rules of this Court. *See* S. Ct. R. 13. This Court has jurisdiction to review the Fourth Circuit's decision pursuant to 28 U.S.C. § 1254(1).

CONSTITUTIONAL PROVISION

The Fifth Amendment to the United States Constitution provides, in relevant part, that “[n]o person shall . . . be deprived of life, liberty, or property, without due process of law.”

STATEMENT OF THE CASE

Indictment and plea

A grand jury in the Eastern District of North Carolina returned a three-count indictment charging Ms. Workman with wrongfully obtaining government property, in violation of 18 U.S.C. § 641 (Count One); making false statements to the Social Security Administration, in violation of 42 U.S.C. § 408(a)(3) (Count Two); and

making false statements within the jurisdiction of the Social Security Administration, in violation of 18 U.S.C. § 1001(a). JA3, JA20-28.

Ms. Workman entered a written plea agreement in which she agreed to plead guilty to Count One of the indictment. JA159-166. Ms. Workman agreed to make restitution to the SSA in the amount of \$208,669.80. JA159. She also agreed to an appeal waiver provision. JA159. The government agreed to recommend a sentence at the low end of the applicable guidelines range. JA165. The parties agreed that an upward adjustment for a loss greater than \$150,000 was warranted, and that a downward adjustment for acceptance of responsibility also was warranted. JA165.

At arraignment, Ms. Workman pleaded guilty to Count One of the indictment and acknowledged she was guilty of that offense. JA35-36.

Sentencing

The Probation Office determined that Ms. Workman's advisory guidelines sentencing range was 15 to 21 months. JA186. Neither party objected to the guidelines sentencing range. *See* JA189-190. However, the Probation Office argued that Ms. Workman should not receive a reduction in the offense level for acceptance of responsibility. JA175, JA186. The Probation Office also addressed "Factors That May Warrant Departure Or Variance." JA187. The Probation Office stated that the court "may wish to consider an upward variance considered by the factors listed in 18 U.S.C. § 3553(a). Specifically, the history and characteristics of the defendant, her conduct as related to tax evasion, and her repeated violations while on pretrial release." JA187. The Probation Office noted: "Presentation of

information in this section does not necessarily constitute a recommendation by the probation officer for a departure or variance.” JA187.

At the sentencing hearing, the court confirmed that Ms. Workman was not objecting to the guidelines range and found that the applicable range was 15 to 21 months’ imprisonment. JA215.

The court asked Ms. Workman’s counsel about the recommendation of the probation officer, noting that she recommended an upward departure to a sentence of 36 months’ imprisonment. JA216. The court said it was “one of the most critical presentations . . . by a probation officer I’ve ever heard.” JA216. When Ms. Workman’s counsel confirmed that he did not have the recommendation, JA216-217, the court read the recommendation.

Mary Elizabeth Workman has perpetrated a fraud and lied to the United States Government for over 25 years. She simultaneously defrauded the Social Security Administration disability benefits, while operating a profitable tax preparation business. And despite her gainful employment and fictitious disabilities, she managed to secure a small business loan during the pandemic and collect unemployment.

The Government agreed to a loss of \$208,669; however, the actual loss as a result of the defendant's ongoing deceit is likely much greater. Workman's criminal convictions include two counts of criminal mischief, failing to stop for police, breaking and entering, and larceny; however, her history of criminal behavior is much more extensive.

Workman claims that she suffered profound abuse as a child, and states that she was physically and sexually abused by family members; however, this could not be substantiated.

The defendant has three children from three prior relationships. Following significant involvement with Child Protective Services in Utah, she terminated her parental rights to each of her children. Despite her children wanting nothing to do with her, Workman

continues to show up unannounced at their homes, has placed trackers on their cars, and threatening their safety.

Any legitimate physical ailments the defendant may have cannot be substantiated. According to her children, Workman's physical conditions are malingering and self-induced. Further, the defendant has abused her children emotionally, physically, and sexually.

Workman has a history of manipulation which spans over two decades. She has abused her children and blamed others. She has violated protection orders, purposefully attempted to avoid law enforcement, used her children to obtain attention and drugs, continues to harass and stalk her children, and ex-husband, threatening to kidnap her grandchildren, lied about her residence to her U.S. Probation Officer, and attempted to travel to Mexico while on pretrial release.

She refused to sign release of information for medical records and has declined to provide any verification. There is no evidence of any of her purported medical conditions. In fact, the opposite is true. Her children and ex-husband independently describe Workman's medical conditions as self-induced and/or entirely fictitious. For example, the defendant purposely raises her blood sugar to appear like she has diabetes and claims she cannot swallow pills, resulting in a GI tube; however, they have seen her swallow pills. After the placement of the GI tube, she claimed she could not crush the pills due to injuries to her wrists; however, her husband possesses the pictures of the defendant shooting firearms with her supposedly injured wrists.

Workman has continued her charade throughout the instant offense, subsequent investigation, with interactions with her attorney, to the U.S. Probation Office, through the presentence investigation, and to the Court. In considering all of the factors in this case, the probation officer believes an upward variance is necessary as a Criminal History Category II significantly understates the seriousness of the defendant's past and current criminal behavior and history, nor does it appropriately address the likelihood she will engage in further acts. As evidenced by her behavior while on pretrial release, the defendant has continued to be dishonest to her probation officer and to the Court.

In considering all of the factors in this case, the probation officer

believes a sentence of 36 months, based on an upward variance, would be sufficient and not greater than necessary to achieve the stated goals of sentencing that is deterrence, incapacitation, just punishment, and rehabilitation.

JA217-220.

The court said that generally, it would not impose an active sentence on a defendant convicted of disability fraud. JA222-223. The court explained it would consider having the probation officer who wrote the recommendation come to the sentencing hearing, stating “I think I almost need that.” JA225-226. Ms. Workman’s counsel asked the court to continue the hearing so that he could communicate with the probation officer and have her attend the hearing. JA226. The court stated, “Let’s continue this till,” but stopped and recognized the government’s counsel. JA226.

When the government questioned the need for a continuance, and the court responded, “Because I want to verify what she’s saying.” JA226-227. The court said it would re-set the matter for hearing. JA228. The court further directed the Probation Office “to revise and confirm the information that’s in this presentence report.” JA228.

After taking a recess, the court returned to the courtroom and announced it would resolve the matter. JA231.

The government stated its agreement with Probation’s recommendation and highlighted comments attributed to Ms. Workman’s children in the presentence report. JA232. The government confirmed that “typically in Social Security cases,

the Government doesn't ask for active time" and that "probation is a perfectly appropriate sentence." JA233. The government said it was not contesting Ms. Workman's disability, but added "there's no substantiation." JA233. The government asked for an active sentence, stating "a guideline range is appropriate." JA234-235. The government concluded, "So I would ask that you sentence her to a guideline sentence." JA238.

Ms. Workman's counsel immediately objected that the government had stipulated in the plea agreement to recommend a sentence at the low end of the guidelines range. JA238. The Assistant United States Attorney stated, "That's correct, Your Honor. I apologize. I forgot about that." JA238.

The court announced that it would impose an active sentence. JA242. The court imposed a sentence of 15 months' imprisonment and three years of supervised release. JA244. The court also ordered restitution in the amount of \$208,669.80. JA244. The court allowed Ms. Workman to self-report to a Bureau of Prisons facility by 15 January 2025. JA244.

First appeal

On appeal, Ms. Workman argued that the district court violated her due process right to a fair sentencing hearing by relying on a recommendation from the Probation Office that contained incorrect and biased information. Appellant's Opening Brief 21-38, *United States v. Workman*, No. 24-4658 (4th Cir. Dkt. No.

20).¹ Ms. Workman also argued that the government violated the plea agreement when it did not advocate for a sentence at the low end of the guidelines range. *Id.* at 38-46. The government chose not to defend its conduct at the sentencing hearing, and the parties filed a joint motion to remand. Joint Motion to Remand, *United States v. Workman*, No. 24-4658 (4th Cir. Dkt. No. 21). The Fourth Circuit granted the motion, vacated Ms. Workman’s sentence, and remanded the case to the district court for resentencing by a different district judge. Order, *United States v. Workman*, No. 24-4658 (4th Cir. Dkt. No. 23-1).

Proceedings on Remand

Following remand, the Probation Office filed a Release Status Report stating that Ms. Workman had “remained in full compliance, since she began the low intensity supervision program on February 24, 2025.” JA423. In advance of Ms. Workman’s resentencing hearing, the Probation Office also filed a “Resentencing Memorandum.” JA268. The Probation Office stated that “[n]o changes have been made to the Presentence Report, Addendum, or Sentencing Recommendation.” JA268.

Ms. Workman objected to the presentence report. JA269-286. She challenged the facts alleged based on reported conversations with Travis Workman and Ms. Workman’s children. JA269. Ms. Workman also objected to three special conditions of supervised release, including a restriction on any contact with family

¹ Ms. Workman cites to the original pagination of her opening brief.

members without prior authorization by the Probation Office. JA270-275. The government did not object to the presentence report. *See* JA10-11.

Ms. Workman requested the court to depart or vary downward from the guidelines range of 15 to 21 months and impose a non-custodial sentence. JA290-303. She argued that her physical condition and her mental and emotional issues supported a reduced sentence as contemplated by guidelines policy statements regarding physical condition and mental and emotional conditions. JA295-300; *see* U.S.S.G. §§ 5H1.3, 5H1.4. Ms. Workman presented information from several of her healthcare providers who confirmed her serious medical conditions and requirements for specialized care, and she also provided reference material relevant to her medical conditions. JA322-422.

The district court began the resentencing hearing by noting the case had a “long history” and was “back from the Fourth Circuit.” App. 7a. After setting the procedural posture, the court said it would “start” with acceptance of responsibility and questioned whether Ms. Workman should benefit from acceptance of responsibility credit. *Id.* at 7a-8a.

The court first asked for the government’s position. *Id.* at 8a. The Assistant United States Attorney stated, “Your honor, if you hear me say nothing else it’s that we intend to stand by our plea agreement as to all stipulations, including with respect to acceptance of responsibility.” *Id.*

The court noted an issue raised by the Probation Office that Ms. Workman had filed a motion to modify her release conditions so that she could work in

Florida, but in fact she had booked a trip on a cruise ship to Mexico. *Id.* at 10a. The court also noted Ms. Workman had been charged with two traffic violations, and that after the first incident had not notified her probation officer of the interaction with law enforcement. *Id.* at 10a-11a. The court concluded by noting “there’s issues with where does she actually live.” *Id.* at 11a.

Ms. Workman responded that the Probation Office had confirmed Ms. Workman’s compliance with all conditions for the last year. *Id.* Ms. Workman then addressed the earlier issues regarding compliance with release conditions. *Id.* at 11a-12a. Ms. Workman also noted that she had accepted responsibility, had stipulated to the loss amount, and met with the prosecutor and case agent. *Id.* at 13a.

The court focused on the motion to modify conditions to permit a trip to Florida, quoting from the motion. *Id.* at 13at 14a. The court ruled that Ms. Workman would not receive acceptance of responsibility credit, and it found the applicable guidelines range was 24 to 30 months. *Id.* at 15a-16a.

Ms. Workman’s counsel then addressed what the court had brought up, “the alleged malingering.” *Id.* at 17a. Counsel noted that she had submitted documentation confirming Ms. Workman’s health conditions. *Id.* The court confirmed it had read Ms. Workman’s filings. *Id.* Counsel noted that Ms. Workman has a PEG tube in her abdomen, that she has had two heart surgeries, and that she has mental health problems. *Id.* at 17a-18a. Ms. Workman asked the court to reconsider the acceptance of responsibility ruling. *Id.* at 19a.

The government asked to “make an inquiry with respect to acceptance of responsibility” and clarified that its question “was whether the government was relieved of its obligation to advocate for acceptance of responsibility.” *Id.* at 19a-20a. The government specifically focused on Ms. Workman’s actions after the plea agreement was executed. *Id.* at 21a. The court confirmed that conduct was “part of it” and that it found “a pattern.” *Id.* The court stated it was reflecting “on all of what’s been brought to my attention over the years,” and “for all of these reasons” denied Ms. Workman’s motion to reconsider the acceptance of responsibility issue. *Id.* at 23a.

The parties presented their sentencing arguments. Ms. Workman’s counsel argued that a sentence within Zone B was appropriate. *Id.* at 24a. Counsel emphasized Ms. Workman’s physical health issues, including chronic pancreatitis, Type 1 diabetes, optical neuritis, angina pectoris, and hyperlipidemia. *Id.* at 25a. Counsel argued further that Ms. Workman’s mental health issues also provided grounds to depart or vary downward to a non-custodial sentence. *Id.* at 25a-26a. Counsel argued prison would “be a life-threatening experience. The BOP simply cannot provide her.” *Id.* at 27a.

The court then directed Ms. Workman to address her objections to some of the special conditions of supervised release that the Probation Office had proposed. *Id.* Ms. Workman’s counsel addressed the proposed restriction on contact with family members and clarified that Ms. Workman wanted to be able to communicate with her daughters. *Id.* at 28a-30a. The government said it was not pursuing that

restriction. *Id.* at 31a.

The government argued this was not a “garden variety” Social Security case in that Ms. Workman’s conduct spanned more than fifteen years and she had wrongfully obtained \$208,669.80 from the Social Security Administration. *Id.* at 33a-34a. The government also noted Ms. Workman’s criminal history. *Id.* at 36a-37a. The government questioned the basis for a downward departure because Ms. Workman’s argument was based on documentation she had assembled, and the government said there was no independent corroboration by the court. *Id.* at 38a. The government argued that the Bureau of Prisons “is more than equipped to handle the medical problems of inmates.” *Id.* at 39a. The government concluded by asking the court to impose a sentence at the bottom of the guideline range as determined by the court. *Id.*

The district court announced it was starting at the top of the guidelines range of 30 months, but ruled it would vary downward to 18 months based on Ms. Workman’s mental health issues. *Id.* at 44a. The court imposed a three-year term of supervised release and included a condition that Ms. Workman was “prohibited from contacting Travis Workman, Shavanaux Rogers, Echo Facer, and Cheyenne Workman directly or indirectly without prior authorization from your probation officer.” *Id.* at 44a, 46a.

Ms. Workman timely filed a notice of appeal. JA18, JA146-147. She also filed an unopposed motion for release pending appeal in the district court. *See* JA428-463. She showed that she met the requirements set by 18 U.S.C. § 3143 for release

pending appeal. JA428-463. The district court denied the motion in a text order. JA148.

Second Appeal

In her opening brief in her second appeal, Ms. Workman argued the district court's judicial vindictiveness resulted in a longer sentence, that she was denied a fair sentencing hearing, that the government breached the plea agreement, that the district court erroneously denied her acceptance of responsibility credit, and that the district court's imposition of supervised release conditions violated her fundamental rights. Appellant's Opening Brief, *United States v. Mary Elizabeth Workman*, No. 25-4507 (4th Cir. Dkt. No. 29). The Fourth Circuit had granted the government's motion to dismiss the issues Ms. Workman had raised in her opening brief that the court found were within the scope of the appeal waiver provision in her plea agreement. App. 2a. Addressing Ms. Workman's remaining argument that the district court vindictively punished her when it imposed a higher sentence and additional supervised release conditions following her successful first appeal, the Fourth Circuit affirmed. *Id.*

The Fourth Circuit recognized that vindictiveness against a defendant for having successfully challenged her sentence on appeal "must play no part" in the sentence she receives upon resentencing. *Id.* (quoting *North Carolina v. Pearce*, 395 U.S. 711, 725 (1969)). The Fourth Circuit explained that a defendant "may 'affirmatively prove actual vindictiveness' through direct evidence of animus." *Id.* (quoting *Wasman v. United States*, 468 U.S. 559, 568-69 (1984)). The Fourth

Circuit ruled that Ms. Workman had not shown actual vindictiveness by the district court at resentencing. *Id.* at 4a. The court reasoned that “Workman does not point to any persuasive evidence of animus by the district court, nor does the record suggest that the court bore ill will towards Workman for succeeding in her appeal of her original sentence.” *Id.* Because Ms. Workman had not raised vindictiveness in the district court, she was required to show plain error, and the Fourth Circuit concluded “Workman has not shown any error, much less a plain one.” *Id.* at 5a.

MANNER IN WHICH THE FEDERAL QUESTION WAS RAISED AND DECIDED BELOW

The question presented was argued and reviewed in Ms. Workman’s appeal. Ms. Workman’s claim is appropriate for this Court’s consideration.

REASON FOR GRANTING THE WRIT

Ms. Workman respectfully contends that the Fourth Circuit’s decision conflicts with this Court’s decisions holding that vindictive sentencing violates the Due Process Clause, including *North Carolina v. Pearce*, 395 U.S. 711 (1969), and *Wasman v. United States*, 468 U.S. 559 (1984). *See* S. Ct. R. 10(c).

DISCUSSION

AFTER MS. WORKMAN’S SUCCESSFUL APPEAL, THE DISTRICT COURT’S IMPOSITION AT RESENTENCING OF A LONGER TERM OF IMPRISONMENT AND ADDITIONAL SPECIAL SUPERVISED RELEASE CONDITIONS WAS VINDICTIVE.

- A. Judicial Vindictiveness in Resentencing a Defendant After a Successful Appeal Violates the Defendant’s Due Process Rights.

“[A] court’s duty is always to sentence the defendant as he stands before the

court on the day of sentencing.” *Pepper v. United States*, 562 U.S. 476, 492 (2011) (quotation omitted). This Court has made clear that “a judge or other sentencing authority is to be accorded very wide discretion in determining an appropriate sentence.” *Wasman v. United States*, 468 U.S. at 563. “While sentencing discretion permits consideration of a wide range of information relevant to the assessment of punishment, [this Court] ha[s] recognized it must not be exercised with the purpose of punishing a successful appeal.” *Alabama v. Smith*, 490 U.S. 794, 798 (1989) (citation omitted). “[T]he Due Process Clause of the Fourteenth Amendment prevent[s] increased sentences actually motivated by vindictive retaliation by the judge: ‘Due process of law, then, requires that vindictiveness against a defendant for having successfully attacked his first conviction must play no part in the sentence he receives after a new trial.’” *Wasman v. United States*, 468 U.S. at 564 (quoting *North Carolina v. Pearce*, 395 U.S. at 725); see also *United States v. Chang*, 121 F.4th 1044, 1047 (4th Cir. 2024) (“The Due Process Clause does indeed prohibit a district court from imposing a harsher sentence on resentencing to punish a defendant for successfully exercising his appellate rights.”).

“To prevent actual vindictiveness from entering into a decision and allay any fear on the part of a defendant that an increased sentence is in fact that the product of vindictiveness, the Court fashioned what in essence is a ‘prophylactic rule’ that whenever a judge imposes a more severe sentence upon a defendant after a new trial, the reasons for his doing so must affirmatively appear.” *Wasman v. United States*, 468 U.S. at 564-65 (quotation and citation omitted). Vindictiveness of a

sentencing judge “is the evil the Court sought to prevent rather than simply enlarged sentences.” *Texas v. McCullough*, 475 U.S. 134, 138 (1986). Thus, the limits the Court first recognized in *North Carolina v. Pearce* “do not apply in every case where a convicted defendant receives a higher sentence on retrial.” *Id.* A presumption of vindictiveness applies where “there is a reasonable likelihood that the increase in sentence is the product of actual vindictiveness on the part of the sentencing authority.” *Alabama v. Smith*, 490 U.S. at 799. “Where there is no such reasonable likelihood, the burden remains upon the defendant to prove actual vindictiveness.” *Id.*

B. Actual Vindictiveness Animated the District Court’s Resentencing of Ms. Workman to a Longer Term of Imprisonment with Added Supervised Release Conditions.

The district court’s words and actions at resentencing reflect actual vindictiveness. The district court began the resentencing hearing by remarking that the “case has a long history” and noting “it’s come back from the Fourth Circuit.” App. 7a. This case was before the district court, “back from the Fourth Circuit,” only because Ms. Workman was successful in her first appeal. And a case involving a guilty plea pursuant to a plea agreement and a joint motion to remand granted by the Fourth Circuit immediately upon the filing of Ms. Workman’s opening brief in the first appeal does not have a “long history.” The district court’s comment reflected its dissatisfaction with the procedural posture of the case, and it punished Ms. Workman by imposing a longer sentence.

No “relevant conduct or events that occurred subsequent to the original

sentencing proceedings” justified the district court’s imposition of a longer term of imprisonment and added conditions of supervised release. *See United States v. Singletary*, 75 F.4th 416, 425 (4th Cir. 2023) (quotation omitted). The only evidence before the court subsequent to the initial sentencing was that Ms. Workman had “remained in full compliance, since she began the low intensity supervision program on February 24, 2025.” JA423. Where, as here, there is no evidence of negative conduct or events subsequent to the initial sentencing, judicial vindictiveness explains the second sentencing court’s actions.

In finding that Ms. Workman had not shown “any persuasive evidence of animus by the district court,” App. 4a, the Fourth Circuit ignored the district court’s express reliance on inflammatory commentary by the Probation Office that Ms. Workman had shown was incorrect and biased. At Ms. Workman’s first sentencing hearing, the district court questioned the reliability of the Probation Office’s recommendation to the point the court considered it might be necessary to have the author of the recommendation appear at the sentencing hearing so the court could determine the relevant facts. JA225-226. The district court also ordered the Probation Office to “revise and confirm” the information it provided to the court. JA228. Ms. Workman’s lead argument in the first appeal was that the district court’s erroneous reliance on incorrect and biased information provided by the Probation Office, where the Probation Office’s excessive advocacy showed it was not acting as a neutral fact-finder, violated her due process right to a fair sentencing hearing. *See Appellant’s Opening Brief, United States v. Workman* 21-38, No. 24-

4658 (4th Cir. Dkt. No. 20).

Notwithstanding the district court's order to "revise and confirm" information that Ms. Workman had shown was biased and incorrect, the Probation Office made "no changes" to the presentence report or its recommendation following the remand from the Fourth Circuit. JA268. The district recognized that the Probation Office had made "no changes," but the court expressed no concerns like those raised by the first district court. App. 7a. Instead of questioning the Probation Office's commentary, the district court expressly relied on those comments.

The district court accepted and relied on the incorrect and biased information provided by the Probation Office, including specifically when it rejected the parties' stipulation in the plea agreement that Ms. Workman was entitled to acceptance of responsibility credit. The district court said it wanted to "start" the resentencing hearing by focusing on Ms. Workman's acceptance of responsibility. *Id.* The presentence report set the guidelines range at 15 to 21 months based on a three-level reduction of the offense level for Ms. Workman's acceptance of responsibility. JA186. The government had not objected to the presentence report, *see* JA14-17, and at the sentencing hearing immediately made clear its intent to abide by its stipulation in the plea agreement that Ms. Workman was entitled to acceptance of responsibility credit, App. 8a. But the Probation Office asserted in the presentence that Ms. Workman should not receive acceptance of responsibility credit. JA175, JA186.

The district court raised as its first concern and then discussed at length an

instance of Ms. Workman filing a motion seeking a modification of her release terms to travel for business and to visit family, but she intended to take a cruise ship to Mexico. App. 10a, 13a-14a. After reciting the content of Ms. Workman's motion, the district court repeated the incorrect and biased statements from the beginning of the Probation Office's recommendation. The court essentially quoted the exaggerated, incorrect assertion from the Probation Office's opening to its recommendation that "for the last 25 years [Ms. Workman] has perpetrated fraud and lied to the United States Government." App. 14a; *compare* JA217 ("Mary Elizabeth Workman has perpetrated a fraud and lied to the United States Government for over 25 years."). The district court then directly quoted from the continuation of the Probation Office's intentionally inflammatory introduction to its recommendation that accused Ms. Workman of presenting "fictitious disabilities": "She simultaneously defrauded the Social Security Administration disability benefits, while operating a profitable tax preparation business. And despite her gainful employment and fictitious disabilities, she managed to secure a small business loan." App. 14a; *compare* JA217 (same).

The district court reset the guidelines range to 24 to 30 months based on its denial of acceptance of responsibility credit for Ms. Workman. App. 15a-16a. The district court varied downward from the guidelines range based on Ms. Workman's mental health issues to impose a sentence of 18 months, *see id.* at 44a, but the court's erroneous reliance on Probation's information prejudiced Ms. Workman. Ms. Workman argued for a non-custodial sentence, and with the kind of downward

variance the court found was appropriate, the guidelines contemplated that a non-custodial sentence was an available option if the court had credited Ms. Workman with the three-level reduction for acceptance of responsibility. *See* JA300-301.

The Probation Office's incorrect and biased information also prejudicially colored the district court's required assessment of Ms. Workman's history and characteristics and the nature and circumstances of the offense. *See* 18 U.S.C. § 3553(a)(1). Where Ms. Workman's offense of conviction was wrongfully obtaining disability benefits because her income from substantial gainful activity disqualified her from receiving such benefits, the district court's acceptance of the Probation Office's characterization that Ms. Workman claimed "fictitious disabilities" shows the district court's vindictive reliance on the Probation Office's incorrect and biased information. *See* App. 14a. Ms. Workman had presented un rebutted evidence from her healthcare providers confirming her serious medical problems and opining that a sentence of imprisonment would effectively be death sentence. JA290-422. Ms. Workman respectfully contends that the Probation Office's improper advocacy thus affected not only the district court's specific decision to deny Ms. Workman acceptance of responsibility credit, but also affected the court's determination of what sentence would be sufficient but not greater than necessary under § 3553(a). The district court's endorsement of Probation's biased and invalid position manifests the district court's actual vindictiveness.

The district court's summary denial of Ms. Workman's motion for release pending appeal after resentencing in an unreasoned text order also reflects judicial

vindictiveness. *See* JA148. The district court had granted Ms. Workman’s motion seeking a stay pending her first appeal, making findings under 18 U.S.C. § 3143 that rebutted the government’s arguments in opposition to Ms. Workman’s motion. *See* JA264-67. Following resentencing, the government did not object to release pending appeal. JA440. The resentencing court knew that Ms. Workman’s sentence was stayed pending her first appeal. JA440. Ms. Workman showed that she met the requirements of § 3143 in her consent motion, including the substantial question raised by the Probation Office’s recommendation that has infected this case since the initial sentencing hearing. JA439 The district court made no findings in denying the motion in a text order. JA148. Where the absence of government opposition gave the district court less reason to deny the motion, Ms. Workman respectfully contends that judicial vindictiveness explains the court’s action.

C. Establishing Actual Judicial Vindictiveness Warranted Plain Error Relief.

Because Ms. Workman did not object on vindictiveness grounds to the sentence the district court imposed, she had to show plain error. *See, e.g., United States v. Olano*, 507 U.S. 725, 732 (1993) (appellate court may notice error not preserved by timely objection if 1) error occurred; 2) it was plain; 3) it affected the defendant’s substantial rights; and 4) it seriously affected the fairness, integrity, or public reputation of the judicial proceedings).

The district court’s error was plain. “[I]mposing a harsher sentence on a

defendant after his successful appeal without identifying intervening circumstances to justify the increase violates the clearly established rule against vindictive sentencing under the Due Process Clause.” *United States v. Chang*, 121 F.4th at 1051. Actual vindictiveness at sentencing is a plain error. *See id.* (“[T]he prohibition against vindictive sentencing has been clear since, at the latest, 1969.”) (citing *North Carolina v. Pearce*, 395 U.S. at 725). If, as the *Chang* court ruled, “*any* sentencing proceeding that raises and fails to rebut *Pearce*’s presumption of vindictiveness undermines the fairness and integrity of the proceeding,” 121 F.4th at 1051 (emphasis added), actual vindictiveness even more clearly than presumptive vindictiveness undermines the fairness and integrity of the sentencing proceeding. Ms. Workman respectfully contends that the district court committed plain error when it resentenced her, and the Fourth Circuit erred when it affirmed the district court.

CONCLUSION

“To punish a person because [she] has done what the law plainly allows [her] to do is a due process violation of the most basic sort . . .” *Bordenkircher v. Hayes*, 433 U.S. 357, 363 (1977). For the reasons shown above, Petitioner Mary Elizabeth Workman respectfully contends that the district court committed plain error when it vindictively resentenced her, and the Fourth Circuit erred in affirming that sentence. Ms. Workman respectfully requests that the Court grant certiorari, remand to the Fourth Circuit, and order Ms. Workman’s case to be remanded to the district court for resentencing.

This the 20th day of July, 2026.

/s/ Paul K. Sun, Jr.

Paul K. Sun, Jr.

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APPENDIX

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UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 25-4507

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MARY ELIZABETH WORKMAN,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. Louise W. Flanagan, District Judge. (5:23-cr-00195-FL-1)

Submitted: March 26, 2026

Decided: April 21, 2026

Before NIEMEYER, AGEE, and RICHARDSON, Circuit Judges.

Affirmed by unpublished per curiam opinion.

ON BRIEF: Paul K. Sun, Jr., ELLIS & WINTERS LLP, Raleigh, North Carolina, for Appellant. W. Ellis Boyle, United States Attorney, Lucy Partain Brown, Assistant United States Attorney, Jake D. Pugh, Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Mary Elizabeth Workman appeals her 18-month sentence imposed on remand for resentencing following her guilty plea to theft of government property, in violation of 18 U.S.C. § 641. We previously granted the Government’s motion to dismiss Workman’s appeal in part as to all issues that fell within the scope of the appeal waiver contained in her plea agreement. The only remaining issue relevant to this appeal is Workman’s argument that the district court vindictively punished her when it imposed a higher sentence and additional supervised release conditions following her successful first appeal. We affirm.

“When a defendant’s sentence has been vacated on appeal and remanded for resentencing, the district court may impose ‘a new sentence, whether greater or less than the original sentence, in the light of events subsequent to the first trial that may have thrown new light upon the’ defendant.” *United States v. Singletary*, 75 F.4th 416, 423 (4th Cir. 2023) (quoting *North Carolina v. Pearce*, 395 U.S. 711, 723 (1969)); see *Pepper v. United States*, 562 U.S. 476, 492 (2011) (“[A] court’s duty is always to sentence the defendant as [s]he stands before the court on the day of sentencing.” (internal quotation marks omitted)). However, “vindictiveness against a defendant for having successfully attacked [her] first conviction must play no part in the sentence [s]he receives.” *Pearce*, 395 U.S. at 725 (internal quotation marks omitted).

There are two ways a defendant may establish judicial vindictiveness. First, she may “affirmatively prove actual vindictiveness” through direct evidence of animus. *Wasman v. United States*, 468 U.S. 559, 568–69 (1984). However, “[t]he existence of a

retaliatory motivation would, of course, be extremely difficult to prove in any individual case.” *Pearce*, 395 U.S. at 725 n.20. So second, “[i]n order to assure the absence of such a motivation,” there is a rebuttable presumption of vindictiveness “whenever a judge imposes a more severe sentence upon a defendant” after a successful appeal. *Id.* at 726. To defeat this presumption, the district court must “justify [its] increased sentence by affirmatively identifying relevant conduct or events that occurred subsequent to the original sentencing proceedings.” *Wasman*, 468 U.S. at 572; *see Pearce*, 395 U.S. at 726 (“Those reasons must be based upon objective information concerning identifiable conduct on the part of the defendant . . .”).

However, the “presumption of vindictiveness does not apply in every case where a convicted defendant receives a higher sentence on retrial.” *Alabama v. Smith*, 490 U.S. 794, 799 (1989) (cleaned up). Rather, when a defendant is resentenced by a different court, *Colten v. Kentucky*, 407 U.S. 104 (1972), the second decisionmaker has an insufficiently “personal stake in the prior conviction,” *Smith*, 490 U.S. at 800 (internal quotations omitted), to make any vindictiveness likely. In these circumstances, because there is no “reasonable likelihood” that a higher sentence on remand resulted from “actual vindictiveness on the part of the sentencing authority,” no presumption of vindictiveness attaches. *Id.* at 799. Instead, “the burden remains upon the defendant to prove actual vindictiveness.” *Id.*

Because Workman did not object to her purportedly harsher sentence on vindictiveness grounds, our review is for plain error. *United States v. Chang*, 121 F.4th 1044, 1050 (4th Cir. 2024). “[U]nder the plain-error standard, the defendant must show

(1) an error that [s]he did not affirmatively waive that (2) was clear or obvious, rather than subject to reasonable dispute, and that (3) affected the outcome of the district court proceedings.” *Id.* at 1051 (internal quotation marks omitted). But “[e]ven if the defendant makes that showing, [s]he must still persuade the appellate court to exercise its discretion to correct the error,” which we will not do unless “the error seriously affected the fairness, integrity or public reputation of judicial proceedings.” *Id.* (internal quotation marks omitted).

With these principles in mind, we conclude that Workman has not shown actual vindictiveness by the district court in its decision to impose a sentence that was three months longer than her original sentence and included additional terms of supervised release. Because Workman was resentenced by a different district court judge, the presumption of vindictiveness does not apply. Furthermore, Workman does not point to any persuasive evidence of animus by the district court, nor does the record suggest that the court bore any ill will towards Workman for succeeding in her appeal of her original sentence. Instead, the record shows that the second district court gave clear and explicit reasons for imposing a longer sentence after taking a careful look at the entire record and relevant information, discussing the details and implications of Workman’s conduct, and giving both parties the opportunity to comment. Likewise, in fashioning the terms of Workman’s supervised release, the district court grounded the conditions in the facts of Workman’s case, including the nature of her offense, her history of medical and mental health issues, and her need for ongoing supervision.

Because Workman has not shown any error, much less a plain one, by the district court, we affirm the district court's judgment. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED

1 UNITED STATES DISTRICT COURT
 2 EASTERN DISTRICT OF NORTH CAROLINA
 3 WESTERN DIVISION

4 UNITED STATES OF AMERICA, - Docket No. 5:23-cr-195-FL-1
 5 Plaintiff, - New Bern, North Carolina
 6 v. - September 3, 2025
 7 MARY ELIZABETH WORKMAN, - Resentencing
 8 Defendant. -

9
 10 PUBLIC TRANSCRIPT OF RESENTENCING HEARING
 11 BEFORE THE HONORABLE LOUISE WOOD FLANAGAN
 12 UNITED STATES DISTRICT JUDGE.

13 **(PURSUANT TO STANDING ORDER 22-SO-1,**
 14 **PORTIONS OF ALL CHANGE OF PLEA AND SENTENCING**
 15 **TRANSCRIPTS ARE RESTRICTED)**

16 APPEARANCES:

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Court Reporter: Tracy L. McGurk, RMR, CRR
 413 Middle St.
 New Bern, NC 28560
 (419) 392-6626

Proceedings recorded by mechanical stenography,
 transcript produced by notereading.

1 (Commenced at 2:10 p.m.)

2 THE COURT: We'll go with Ms. Workman.

00:00:44 3 So we've been together before in this case,
00:00:58 4 haven't we?

00:01:02 5 MS. SMITH: Well, I haven't, Your Honor.
00:01:03 6 This is my first time to represent her before you, yes.

00:01:06 7 THE COURT: So the case has a long history.
00:01:11 8 And it's come back from the Fourth Circuit.

00:01:15 9 Judge Boyle had the case at first, and the
00:01:20 10 Court sentenced Ms. Workman to 15 months in custody,
00:01:23 11 three years of supervised release, and restitution in
00:01:27 12 the agreed amount of \$208,669 for theft of government
00:01:35 13 property.

00:01:35 14 The parties moved jointly that the
00:01:38 15 government -- on account of the fact that the government
00:01:42 16 had breached the plea agreement by not recommending a
00:01:46 17 sentence at the low end of the guideline range, and
00:01:53 18 ultimately their joint motion was allowed. The
00:02:00 19 sentence was vacated. It was remanded to a different
00:02:04 20 judge for resentencing. That judge is me.

00:02:08 21 And no changes have been made to the
00:02:10 22 presentence report, the addendum thereto.

00:02:17 23 But let's start with acceptance of
00:02:22 24 responsibility, because there's a whole, whole lot in
00:02:25 25 the record of this case that gives me cause to think

00:02:30 1 that Ms. Workman is not deserving of a total offense
00:02:36 2 level of a 13, but rather the offense level is a 16,
00:02:47 3 based on conduct described in this record.

00:02:54 4 So what does the government think?

00:02:59 5 MR. GILMORE: Your Honor, if you hear me say
00:03:02 6 nothing else it's that we intend to stand by our plea
00:03:05 7 agreement as to all stipulations, including with respect
00:03:08 8 to acceptance of responsibility. And what we ask the
00:03:11 9 Court is to certainly take into consideration various
00:03:15 10 factors, which I know the Court has read, which bear
00:03:18 11 negatively on the sentence in this case, but I would ask
00:03:21 12 the Court to consider those in the context of -- kind of
00:03:25 13 a counterbalance to what you're going to hear from the
00:03:28 14 defense in terms of arguments for a variance, arguments
00:03:32 15 for a departure. We come back to the same place in this
00:03:35 16 case, Your Honor, and that is to a sentence at the
00:03:37 17 bottom of the range.

00:03:38 18 THE COURT: Okay. Well, I'm focused on what
00:03:41 19 is the advice of the sentencing guidelines, because
00:03:44 20 that's the first thing the Court -- maybe not the first,
00:03:48 21 but it's early on in it. And that would change things
00:03:53 22 to 24 to 30 months.

00:03:56 23 So what do you think, Ms. Smith?

00:03:59 24 MS. SMITH: If I may, Your Honor, again, I'm
00:04:03 25 coming in after the horse has left the barn, so to

00:04:07 1 speak.

00:04:08 2 THE COURT: It's a full resentencing,
00:04:10 3 though, isn't it?

00:04:11 4 MS. SMITH: Correct; it is. And it's anew,
00:04:13 5 as the Fourth Circuit says.

00:04:15 6 THE COURT: But she got the low end, didn't
00:04:17 7 she?

00:04:18 8 MS. SMITH: She did.

00:04:19 9 And first of all, Your Honor, we filed an
00:04:22 10 objection to the loss amount in the PSR.

00:04:25 11 THE COURT: Could I do acceptance of
00:04:27 12 responsibility first?

00:04:30 13 MS. SMITH: We are withdrawing that.

00:04:33 14 Okay. So I think part of this has been an
00:04:36 15 educational process for Mrs. Workman. And it has
00:04:41 16 certainly been a learning curve for me working with her,
00:04:45 17 understanding how the system works and what it all
00:04:49 18 means.

00:04:50 19 I also think -- quite frankly, Your Honor,
00:04:52 20 I've looked at a lot of PSRs in my life. And I've
00:04:56 21 never seen one that seemed to have so much information,
00:05:01 22 not particularly relevant to what -- I mean, yes, it's
00:05:05 23 personal history and characteristics, but for a
00:05:08 24 relatively small government benefits fraud case, I
00:05:12 25 thought there was a lot of extraneous stuff there.

00:05:15 1 THE COURT: Okay. I just want to narrow the
00:05:17 2 focus.

00:05:19 3 MS. SMITH: Got it.

00:05:20 4 THE COURT: Okay. She wants to go to
00:05:21 5 Florida while she's under supervision.

00:05:21 6 MS. SMITH: Right.

00:05:24 7 THE COURT: And actually she's on a cruise
00:05:30 8 to Mexico after the attorney that represented her said
00:05:33 9 she was going to Florida --

00:05:35 10 MS. SMITH: Right.

00:05:36 11 THE COURT: -- to work and visit family.

00:05:38 12 MS. SMITH: Right.

00:05:39 13 THE COURT: So that's -- you know, going out
00:05:40 14 of the country is pretty significant. We don't know
00:05:44 15 where she is.

00:05:45 16 And then she gets -- runs into law
00:05:48 17 enforcement, kind of a traffic violation in February of
00:05:53 18 2024. She doesn't let anybody know. She doesn't go
00:05:57 19 to court in Onslow County to address it, and there's an
00:06:01 20 order of arrest that's issued.

00:06:03 21 Then she's up in Raleigh in June of last
00:06:06 22 year, gets charged with unlawful passing. She passes a
00:06:10 23 vehicle from the rear while the vehicle was stopped to
00:06:14 24 allow people to walk in front of that vehicle on a
00:06:18 25 crosswalk. So that's very dangerous to pass a stopped

00:06:22 1 vehicle allowing pedestrians to transit in front of it.

00:06:29 2 And then there's issues with where does she
00:06:31 3 actually live.

00:06:33 4 So I've gone through paragraphs 7, 8, 9, and
00:06:37 5 10. And there's a lot of this file that --

00:06:42 6 MS. SMITH: And the report that the officer
00:06:43 7 filed just last week, Your Honor, notes that she has
00:06:46 8 been fully compliant for the last year.

00:06:48 9 THE COURT: Well, that's good. That's not
00:06:51 10 the whole time.

00:06:53 11 MS. SMITH: No, it's not.

00:06:54 12 But to address each of those five instances:

00:06:57 13 Regarding the travel to Mexico, Mrs. Workman
00:07:01 14 had a legitimate misunderstanding about her travel.

00:07:06 15 And it began -- it continued at least until I began to

00:07:10 16 represent her. We have spent many minutes and hours

00:07:14 17 discussing what she can and cannot do. And she

00:07:19 18 believed that she heard that she could travel on

00:07:22 19 vacation. She had booked this thing beforehand. And,

00:07:25 20 of course, she didn't go; she was stopped, and she never

00:07:30 21 left the country.

00:07:33 22 I will tell Your Honor that -- I've put this
00:07:36 23 in the sentencing memo. She has a very serious eye

00:07:42 24 problem, optical neuritis, which impacts her ability to

00:07:46 25 read well. And she has to do everything on the

00:07:48 1 computer in a magnified print. So I don't think it was
00:07:53 2 an intentional violation. I think it was a mistake.

00:07:57 3 Regarding the failure to report the moving
00:08:00 4 traffic violations, again, she hears one thing, but she
00:08:06 5 understands another. She did not understand that that
00:08:09 6 kind of contact with a law enforcement officer was to be
00:08:14 7 violative because she just thought it was a traffic
00:08:17 8 violation.

00:08:18 9 The failing to appear for court, that was a
00:08:21 10 misunderstanding with her attorney, Your Honor. She
00:08:24 11 was told that the attorney would take care of it, and
00:08:26 12 she didn't have to come.

00:08:29 13 So changing her residence, this whole issue.
00:08:33 14 Mrs. Workman is very private. I've had a very
00:08:36 15 difficult time getting information from her that I feel
00:08:40 16 I need to diligently represent her just because she is
00:08:44 17 very guarded and very private. And in light of her --
00:08:49 18 she's been victimized from a very young age, Your Honor.
00:08:52 19 That's all in the PSR as well. This is very consistent
00:08:56 20 with people who are abused as children. And so she
00:09:01 21 changed; she found a place to live. She has been there
00:09:07 22 now for two years plus. And as the most recent report
00:09:12 23 notes, everything is fine in that regard. She has not
00:09:15 24 moved. She's there.

00:09:17 25 You know, I think another issue was

00:09:20 1 preparing tax returns. I don't believe that was
00:09:23 2 actually precluded in the conditions of her release,
00:09:27 3 although it was cited.

00:09:30 4 So, you know, Your Honor, again, I can
00:09:35 5 understand how the Court would be upset about this, as I
00:09:39 6 would be. And particularly if I was representing her
00:09:43 7 at the time. But I think we need to look at the last
00:09:48 8 year. She's been compliant.

00:09:51 9 And, Your Honor, this last couple of times
00:09:53 10 where she's asked for leave to travel outside to visit
00:09:56 11 family, she didn't go to Georgia. She stayed here.
00:10:00 12 She hasn't left Wake County except to come here today.
00:10:04 13 So she's changed her behavior in that regard.

00:10:10 14 Your Honor, she accepted responsibility.
00:10:13 15 She stipulated to the loss amount. She came in and met
00:10:19 16 with a prosecutor and with the case agent. She's done
00:10:23 17 everything that she should have done in order to get
00:10:26 18 acceptance of responsibility.

00:10:28 19 THE COURT: No, she hasn't. Let's just
00:10:31 20 pick it apart a little bit. I'll just take one. And
00:10:34 21 I am looking at the motion that the attorney filed on
00:10:37 22 her behalf to try to go to Florida. And this motion
00:10:41 23 doesn't speak of perhaps difficulty communicating
00:10:45 24 between counsel and client because of some eye issue.
00:10:51 25 This is a lawyer, putting that lawyer's credibility on

00:10:58 1 the line, who writes to the Court and says: I
00:11:04 2 respectfully move this Court for an order again amending
00:11:07 3 her conditions of release. Ms. Workman does
00:11:11 4 bookkeeping work and has informed the undersigned that
00:11:16 5 she has a potential new small business client in
00:11:20 6 Florida, where she would need to be on site for at least
00:11:24 7 a business week to work on the bookkeeping transition;
00:11:28 8 and on her way back she would like to visit a family
00:11:33 9 member in the Macon, Georgia area.

00:11:37 10 I mean, that's awfully, awfully specific in
00:11:40 11 the context of somebody, Ms. Workman, who for the last
00:11:46 12 25 years has perpetrated fraud and lied to the United
00:11:52 13 States Government. She simultaneously defrauded the
00:11:56 14 Social Security Administration disability benefits while
00:12:00 15 operating a profitable tax preparation business. And
00:12:05 16 despite her gainful employment and fictitious
00:12:10 17 disabilities, she managed to secure a small business
00:12:14 18 loan.

00:12:14 19 And I know there's some issue as to these
00:12:16 20 disabilities, but even taking that out of the equation,
00:12:22 21 she still got a small business loan during the pandemic,
00:12:28 22 which she didn't deserve, and collected unemployment.

00:12:33 23 So that's -- the lawyer told this Court
00:12:37 24 after the Court had given her many opportunities, or
00:12:40 25 several, to travel various places that yet again she

00:12:43 1 needed to travel. And she received that grace. And
00:12:48 2 lo and behold, what she's really doing is trying to go
00:12:52 3 on a cruise to Mexico.

00:12:56 4 MS. SMITH: If I may, Your Honor, first of
00:12:57 5 all, the offense charged behavior over 15 years, not 25.
00:13:05 6 I just want to make sure the record is clear.

00:13:07 7 THE COURT: I'm looking at the whole record.
00:13:10 8 Now, there's -- even a magistrate judge gets
00:13:12 9 involved in this case, certification of criminal
00:13:16 10 contempt and order to show cause.

00:13:18 11 MS. SMITH: Right. That was resolved, Your
00:13:20 12 Honor. And Judge Boyle dissolved all that.

00:13:24 13 THE COURT: Well, she was given grace.

00:13:26 14 MS. SMITH: Grace, correct, Your Honor.

00:13:28 15 THE COURT: But she's not getting acceptance
00:13:32 16 of responsibility.

00:13:32 17 There's just multiple things in this case
00:13:36 18 while she's been out enjoying her liberty, the benefits
00:13:40 19 that come with that.

00:13:40 20 And you tell me she's -- communication has
00:13:45 21 been difficult for you. And I'm sorry about that.

00:13:48 22 But, no, she doesn't get three points off.

00:13:51 23 Now, this is not the be-all end-all. But
00:13:54 24 it's the advice of the guidelines. And, ma'am, it's
00:13:57 25 based on a 16.

00:13:58 1 And it's great that we don't know anything
00:14:04 2 bad in the last year. But she wanted to be on bond.
00:14:09 3 She got to be on bond. There were requirements. She
00:14:12 4 didn't comply with them.

00:14:14 5 And so the advice of the guidelines is,
00:14:23 6 again, 24 to 30.

00:14:27 7 So, now, what else do we need to decide
00:14:32 8 before I hear you tell me what you think is the
00:14:34 9 appropriate sentence?

00:14:36 10 MS. SMITH: Well, so we have -- the loss
00:14:39 11 amount is conceded.

00:14:40 12 THE COURT: Right.

00:14:41 13 MS. SMITH: 208.

00:14:45 14 THE COURT: There's some thought it's
00:14:47 15 probably substantially more than that. But that's
00:14:49 16 conceded.

00:14:51 17 MS. SMITH: And we continue our objections
00:14:52 18 to the three specific special conditions of release in
00:14:56 19 paragraphs 96, 97, and 98.

00:14:59 20 THE COURT: I will hear that when we get to
00:15:01 21 that. I'd like to hear that in context.

00:15:04 22 MS. SMITH: Okay.

00:15:07 23 So now you want me to argue the sentence,
00:15:09 24 the appropriate sentence? Is that what you're asking
00:15:11 25 for now?

00:15:11 1 THE COURT: Well, is there anything else
00:15:13 2 that you think we need to decide right now?

00:15:19 3 MS. SMITH: Well, I don't know exactly how
00:15:23 4 the Court wants to do it.

00:15:25 5 I do want to address head-on, because you
00:15:28 6 already brought it up, the alleged malingering.

00:15:31 7 I submitted the documentation of her health
00:15:34 8 conditions. And, you know, Your Honor, I don't know
00:15:38 9 how you fake a PEG tube, which is what this woman has
00:15:42 10 inserted into her abdomen in order for her to take the
00:15:47 11 medications prescribed for her by her doctors so that
00:15:50 12 she can live every day.

00:15:50 13 THE COURT: Okay.

00:15:52 14 MS. SMITH: She is quite ill. I don't
00:15:53 15 think I've had a client with the level of illness that
00:15:57 16 this woman has. I know she probably looks normal to
00:16:03 17 you today because she made a big effort. But she's not
00:16:07 18 eaten. Her blood sugar is up; she checked it right
00:16:11 19 before she came in. And every day is a challenge with
00:16:15 20 her. Every single day, getting up out of the bed and
00:16:18 21 getting around and doing things is a challenge for her.

00:16:23 22 I don't -- there were some other things --
00:16:27 23 and I know I put a lot of stuff in there that you may or
00:16:30 24 may not want to read.

00:16:32 25 THE COURT: No, I read everything.

00:16:33 1 MS. SMITH: I know you do. And I'm not
00:16:36 2 going to read everything to you just yet.

00:16:40 3 She is a very ill person, clearly meets the
00:16:44 4 5H1.3 or 4, the one on physical illness.

00:16:49 5 I think she has mental health problems. She
00:16:52 6 has not been able to -- she's been diagnosed with
00:16:55 7 depression, depressive disorder, and post-traumatic
00:16:59 8 stress disorder. She can no longer afford private pay,
00:17:03 9 and she doesn't have any treatment now. I think she
00:17:07 10 probably meets the second one for a mental condition.

00:17:13 11 You know, she's had two surgeries, two heart
00:17:17 12 surgeries, Your Honor. And not that it's really
00:17:21 13 relevant, but I've had heart bypass surgery, and I know
00:17:27 14 how difficult it is to recover from that. And I know --
00:17:31 15 and I've had the stents, in a different order. She had
00:17:36 16 the heart surgery first and then the stents. But these
00:17:40 17 are very serious conditions. And you're not the same.
00:17:43 18 Your life changes; the pace of your life certainly
00:17:48 19 changes. It's kind of like being in slo-mo sometimes;
00:17:51 20 that's how it is.

00:17:57 21 You know, I am distressed that the Court is
00:17:59 22 going up for acceptance of responsibility, Your Honor,
00:18:03 23 because, you know, that was designed to be a given for
00:18:08 24 people who plead guilty. That was designed to encourage
00:18:12 25 people to plead guilty to avoid unnecessary litigation

00:18:16 1 and the resources of everyone involved. And I hate to
00:18:21 2 see it taken away from her when she has tried,
00:18:25 3 particularly in the last year, so hard to change herself
00:18:29 4 and change her behavior, while at the same time dealing
00:18:33 5 with these very serious health issues. And I would
00:18:37 6 respectfully ask the Court to reconsider your decision
00:18:39 7 on that.

00:18:40 8 I do have some argument regarding the
00:18:42 9 conditions, and I do have some argument on the downward
00:18:46 10 departure and downward variance and our ultimate
00:18:49 11 request, but I want to go in the order that you want me
00:18:52 12 to go.

00:18:52 13 THE COURT: I think you should go now to
00:18:54 14 your downward departure and your downward variance.

00:18:54 15 MS. SMITH: Sure.

00:18:58 16 THE COURT: But you think something else?

00:19:00 17 MR. GILMORE: Your Honor, may I make an
00:19:01 18 inquiry with respect to acceptance of responsibility?
00:19:06 19 I've heard the Court with respect to the finding. I
00:19:09 20 did want to note for the record the plea agreement in
00:19:11 21 this case dated June 6th, 2024. As a part of the
00:19:26 22 Court's finding with respect to acceptance of
00:19:30 23 responsibility, is the Court also including the conduct
00:19:32 24 that's described on June 26th, 2024, specifically
00:19:37 25 failing to report status of residence to the probation

00:19:41 1 officer, so that conduct occurring after the plea
00:19:43 2 agreement was executed?

00:19:44 3 THE COURT: Yes.

00:19:47 4 MR. GILMORE: That being the case, Your
00:19:48 5 Honor, the government -- and we're not there yet, but
00:19:51 6 the government is obligated, with respect to the
00:19:55 7 acceptance of responsibility, it's listed in the plea
00:20:00 8 agreement, unless the Court has found that there's a
00:20:02 9 change of circumstances since the time of this document
00:20:06 10 being executed. And I guess I'm asking the Court at
00:20:10 11 this time if the government is relieved of its
00:20:14 12 obligation to advocate for acceptance of responsibility
00:20:19 13 under those circumstances.

00:20:20 14 THE COURT: I heard you say at the start
00:20:22 15 that you were sticking to it.

00:20:24 16 MR. GILMORE: Your Honor, our obligation
00:20:26 17 under the plea agreement --

00:20:26 18 THE COURT: I know what it is, but I heard
00:20:28 19 you say at the start that you were -- you felt she was
00:20:32 20 deserving of acceptance of responsibility.

00:20:35 21 MR. GILMORE: Your Honor, what I stated is
00:20:37 22 that we would advocate for a sentence at the bottom of
00:20:40 23 the guideline range, which is what's written in the plea
00:20:42 24 agreement.

00:20:42 25 Obviously the Court's finding with respect

00:20:44 1 to acceptance of responsibility impacts what that range
00:20:46 2 is.

00:20:47 3 And so to the extent that the government --
00:20:49 4 I don't want there to be any confusion that the
00:20:52 5 government has breached the plea agreement again by
00:20:55 6 advocating for the sentence that would now be called for
00:20:58 7 under a new guideline. And so to that end, I'm just
00:21:02 8 asking the Court to make a finding that there is a
00:21:05 9 changed circumstance since the time that this plea was
00:21:08 10 executed in early June; specifically, lied to the
00:21:15 11 probation office in late June.

00:21:16 12 THE COURT: Yes. That's part of it.

00:21:18 13 MR. GILMORE: Thank you, Your Honor.

00:21:22 14 THE COURT: I mean, it's a pattern.

00:21:31 15 Let me look at the record. I hate to
00:21:33 16 interrupt you, but since the government has picked this
00:21:37 17 up --

00:21:37 18 MS. SMITH: That's okay.

00:21:46 19 THE COURT: I'm sorry. I'm having a little
00:21:51 20 trouble with my computer. You can be seated.

00:21:53 21 MS. SMITH: To be honest, I'd rather stand,
00:21:56 22 Your Honor. It's a long drive.

00:21:59 23 THE COURT: That's fine, of course.

00:22:44 24 There's no issue as to forfeiture, is there?

00:22:49 25 MS. SMITH: No, Your Honor.

00:22:50 1 THE COURT: That motion is allowed, if it
00:22:52 2 remains pending.

00:24:26 3 There was non-compliance with conditions of
00:24:34 4 release in 2023 and 2024, also including in 2024 failure
00:24:41 5 to give a pedestrian the right of way, speeding, and
00:24:45 6 driving while license revoked. Expired registration was
00:24:49 7 in 2025. And speeding in 2025.

00:25:01 8 I assume the government's question may have
00:25:07 9 embraced some of those violations this year?

00:25:11 10 MR. GILMORE: Yes, Your Honor. And just
00:25:13 11 specifically, the plea agreement provides that if the
00:25:16 12 defendant's conduct prior to sentencing changes the
00:25:18 13 circumstances with respect to any such factors,
00:25:20 14 including acceptance of responsibility, the United
00:25:23 15 States is no longer bound to its position as to those
00:25:26 16 factors. We're simply confirming on the record that the
00:25:29 17 Court agrees that there is a changed circumstance with
00:25:32 18 respect to that factor that would relieve the government
00:25:35 19 of that obligation.

00:25:37 20 THE COURT: There's alleged failure to abide
00:25:39 21 by the terms and conditions that govern the privilege of
00:25:43 22 driving on the highways and byways of North Carolina
00:25:49 23 fairly recently, right?

00:25:51 24 MR. GILMORE: Yes, Your Honor.

00:25:53 25 THE COURT: So it's just kind of part of a

00:25:56 1 pattern here. So I reflect on all of what's been
00:26:04 2 brought to my attention over the years.

00:26:08 3 This has been a very difficult case for the
00:26:11 4 probation office to supervise. A lot of grace has been
00:26:15 5 shown Ms. Workman.

00:26:18 6 But I do not believe she has accepted
00:26:21 7 responsibility. And for all of these reasons, I deny
00:26:29 8 your motion to reconsider my ruling.

00:26:33 9 MS. SMITH: Thank you, Your Honor.

00:26:34 10 THE COURT: But your objection is noted on
00:26:37 11 the record.

00:26:37 12 MS. SMITH: Thank you, Your Honor.

00:26:39 13 And the report notes she has been fully
00:26:41 14 compliant since February 24th of this year.

00:26:44 15 THE COURT: You know, that's true. I don't
00:26:49 16 want to take it away from her. But you don't just get
00:26:52 17 to wake up and decide that today you're going to comply,
00:26:55 18 and that excuses three weeks ago when you didn't. I am
00:27:02 19 supposed to evaluate the totality, the whole course of
00:27:07 20 conduct, the whole person. And there's good and bad in
00:27:14 21 everybody.

00:27:15 22 MS. SMITH: There is, Your Honor. There
00:27:17 23 is. And I know that you see that. You're very fair.
00:27:20 24 I want to say that.

00:27:25 25 But, you know, I'm filled with so much

00:27:25 1 compassion for this woman. And as the Court knows, or
00:27:30 2 probably knows, I was a prosecutor like Mr. Gilmore in
00:27:34 3 another district, and I did a lot of Project Safe
00:27:38 4 Childhood cases, and I worked with a lot of victims of
00:27:42 5 sexual crimes who were children when they were
00:27:44 6 victimized. And this is -- her behavior is completely
00:27:48 7 consistent with that. They are never right, never
00:27:55 8 right. And I want you to give her the benefit of that
00:27:57 9 doubt. She didn't choose to be victimized, okay, Your
00:28:01 10 Honor.

00:28:01 11 We want the Court to get Mrs. Workman in
00:28:06 12 Zone B of the sentencing table. Usually, Judge, I ask
00:28:09 13 for a specific term of imprisonment. But in this
00:28:11 14 instance I'm really following on your fairness to tell
00:28:17 15 the truth, which would enable you to impose a
00:28:21 16 noncustodial sentence. If you vary downwardly or
00:28:26 17 departed downwardly by six levels, her total offense
00:28:31 18 level would be ten, and her AGR would be eight to 14
00:28:35 19 months, which is in Zone B. This would reflect a
00:28:38 20 downward movement of -- I'm guessing here -- 45 percent,
00:28:44 21 because I don't have my calculator with me.

00:28:46 22 And honestly, I submitted the quick facts
00:28:51 23 from the Sentencing Commission. Half of these types of
00:28:55 24 cases get variances, and almost all of them are downward
00:28:59 25 variances, with the average reduction being 59 percent.

00:29:04 1 That would be well within what's going on with the rest
00:29:08 2 of the world.

00:29:11 3 As I've stated, I think a downward departure
00:29:13 4 and a downward variance is justified under 5H1.4 and
00:29:19 5 3553(a)(1), (2), and (3).

00:29:22 6 I am moved by the list of the various
00:29:26 7 serious ailments she has. Chronic pancreatitis is a
00:29:31 8 terrible condition. She has a PEG tube in order to take
00:29:36 9 her medication. She has type 1 diabetes. She has
00:29:36 10 optical neuritis, angina pectoris, and hyperlipidemia.
00:29:47 11 And, Your Honor, I don't think the government has ever
00:29:49 12 disputed that she qualified for disability on the
00:29:51 13 medical prong. I don't think that was ever in dispute.
00:29:54 14 I think the other part was the substantial gainful
00:29:59 15 activity.

00:30:00 16 She's had several serious surgeries,
00:30:02 17 including a coronary artery bypass graft. And she
00:30:07 18 lives with chronic pain. It's difficult for me to
00:30:11 19 fathom how she gives herself medications through this
00:30:15 20 PEG tube in her stomach and how that has altered her
00:30:19 21 life.

00:30:20 22 You can also grant a downward departure and
00:30:23 23 a downward variance under 5H1.3 and, again, 3553(a)(1),
00:30:29 24 (2), and (3) because of her mental health.

00:30:32 25 You know, as I stated earlier, Mrs. Workman

00:30:35 1 is a very private person who does not willingly inform
00:30:39 2 you of all of her problems, especially mental health
00:30:42 3 problems. In light of her mental health history and
00:30:49 4 previous commitment that she's had, that's quite
00:30:54 5 understandable. It's hard for her to be in this public
00:30:57 6 forum and have me talk about all this. She's not proud
00:31:00 7 of it, Your Honor. But we cannot ignore the
00:31:03 8 extraordinary things that she has survived and act as
00:31:07 9 though her mental health is great, because it's not.
00:31:10 10 It's very poor. She is very fragile in terms of mental
00:31:13 11 health. She has been, as I said, diagnosed and treated
00:31:18 12 for depression, depressive disorder, and post-traumatic
00:31:22 13 stress disorder.

00:31:24 14 Prison is not necessary or warranted for
00:31:28 15 Mrs. Workman, Your Honor. She committed a financial
00:31:31 16 crime which requires repayment of \$208,000 in
00:31:35 17 restitution to the government. She's also precluded,
00:31:38 18 of course, from getting any benefits because they'll
00:31:41 19 take it if she does qualify, which means she will be
00:31:44 20 destitute. That's a huge burden, a huge punishment,
00:31:51 21 Your Honor.

00:31:53 22 And most of the time this type of offense --
00:31:55 23 even Judge Boyle said it at the other sentencing, where
00:31:58 24 I was not present, of course. He said most defendants
00:32:02 25 don't get jail time for this type of -- under the facts

00:32:06 1 of that case.

00:32:09 2 Given her upbringing, her shame and
00:32:11 3 embarrassment is sufficiently punitive and deterrent.

00:32:15 4 She has a very low likelihood of repeating
00:32:18 5 this conduct because she -- this has been a horrible,
00:32:22 6 horrible experience for her, and she's not going to ever
00:32:25 7 do anything which puts her in this situation.

00:32:29 8 Finally, Your Honor, you know, I have
00:32:32 9 several clients who are in prison right now with not
00:32:37 10 nearly the level of severity physical problems that this
00:32:42 11 woman has. And prison for her will be a
00:32:45 12 life-threatening experience. The BOP simply cannot
00:32:50 13 provide her. And it's becoming more clear to everybody,
00:32:54 14 even the media is picking up how the BOP is understaffed
00:32:59 15 and underfunded, and the medical care is suffering
00:33:02 16 tremendously. In my mind sending this lady to prison
00:33:07 17 would be cruel and unusual punishment under the Eighth
00:33:10 18 Amendment.

00:33:12 19 So having said all that, Your Honor, I do
00:33:14 20 want to address the special conditions of supervised
00:33:20 21 release. Thank you.

00:33:20 22 THE COURT: Okay. Let's go ahead and think
00:33:24 23 about those special conditions.

00:33:26 24 So remind me what ones you object to.

00:33:31 25 MS. SMITH: In 96, Your Honor, she is

00:33:34 1 restricted from engaging in a tax preparation business.

00:33:42 2 And in 97, Your Honor, she is required to
00:33:46 3 file tax returns and provide copies to the probation
00:33:52 4 office.

00:33:52 5 And number 98, Your Honor, she's restricted
00:33:56 6 from contacting her adult children without prior
00:34:00 7 approval by the probation officer.

00:34:03 8 THE COURT: They don't want to be contacted
00:34:05 9 by her.

00:34:06 10 MS. SMITH: Well, actually, Your Honor, two
00:34:07 11 of her daughters have submitted letters in support of
00:34:10 12 her. And she is in contact with them, which is part of
00:34:13 13 the problem.

00:34:14 14 Her son -- the oldest is a son. She has had
00:34:18 15 no contact with him, and does not intend to. He's made
00:34:22 16 it clear, and she hasn't reached out to him. But she
00:34:25 17 is in contact with her daughters.

00:34:28 18 I raised several issues. I'll be happy to
00:34:31 19 go over those again with that one.

00:34:33 20 THE COURT: So remind me, Shavanaux, Echo,
00:34:40 21 and Cheyenne are all girls?

00:34:43 22 MS. SMITH: No, ma'am. Shavanaux is a man.

00:34:48 23 THE COURT: So Shavanaux doesn't want to
00:34:50 24 have any contact?

00:34:51 25 MS. SMITH: And she's had no contact.

00:34:53 1 THE COURT: And certainly Travis Workman
00:34:55 2 doesn't want to have any contact.

00:34:57 3 MS. SMITH: She doesn't want any.

00:34:58 4 THE COURT: So your request is specifically
00:35:02 5 directed towards Echo Facer and --

00:35:07 6 MS. SMITH: -- Cheyenne, correct. And
00:35:10 7 she's in contact with them.

00:35:11 8 THE COURT: And you think that she ought to
00:35:14 9 be allowed to prepare, for compensation, personal income
00:35:19 10 tax returns?

00:35:20 11 MS. SMITH: Yes, Your Honor. That's what
00:35:21 12 she's done. I kind of -- you know, no one has accused
00:35:27 13 her of not filing -- that's never been an issue. In
00:35:32 14 fact, if anything, the government used it as proof of
00:35:36 15 her fraud that she was doing this. But there's no
00:35:40 16 indication that she was preparing tax returns
00:35:42 17 fraudulently or anything else like that. She wasn't
00:35:46 18 generating false refunds or doing anything like that,
00:35:49 19 which is what you normally get when you preclude someone
00:35:53 20 from doing that. It's an otherwise lawful occupation.

00:35:56 21 THE COURT: What's your problem with her
00:35:58 22 filing her tax returns for all future years as provided
00:36:01 23 by law?

00:36:02 24 MS. SMITH: Well, it's just redundant, Your
00:36:04 25 Honor. I was talking to Mr. Gilmore here earlier.

00:36:07 1 And I think we know that one -- we're not going to win
00:36:11 2 that one. But it's redundant. She's already required
00:36:15 3 to do that by law if she has any income, or the
00:36:19 4 threshold amount, which is, what, \$600 now to file a tax
00:36:23 5 return?

00:36:26 6 And then the third one as to the two
00:36:29 7 children, Your Honor, I cited several issues.

00:36:33 8 THE COURT: So you think those two children
00:36:35 9 want to hear from her?

00:36:36 10 MS. SMITH: Yes. And she's very measured.
00:36:39 11 She doesn't push herself on them. It's very
00:36:43 12 restrained.

00:36:43 13 She's trying to rebuild these relationships,
00:36:46 14 Your Honor. I'm not saying it's hunky-dory, nor is
00:36:50 15 she.

00:36:50 16 THE COURT: It seems to me that she would
00:36:52 17 get pretty quickly authorization from the probation
00:36:55 18 officer if they want to hear from her.

00:36:58 19 MS. SMITH: Well, I mean -- I guess here's
00:37:01 20 the practicalities of it, Your Honor. You know, I have
00:37:04 21 an adult daughter and an adult son. Do I need -- does
00:37:07 22 she need approval before she sends a text message?
00:37:10 23 Before she says: Good morning; how are you? How is the
00:37:14 24 baby? It has a chilling effect on the relationship,
00:37:19 25 Your Honor. And it's just not called for. I cited

00:37:22 1 all the First Amendment and the Eighth Amendment and
00:37:26 2 even the Sentencing Commission, and the probation
00:37:32 3 office's own documents.

00:37:33 4 THE COURT: You made your point. I
00:37:34 5 understand it.

00:37:36 6 So do you want to address those issues?

00:37:40 7 MR. GILMORE: Your Honor, the government
00:37:41 8 isn't seeking to wade into the personal conflicts or
00:37:44 9 status of those with family, so we're not pursuing that.

00:37:44 10 THE COURT: Okay.

00:37:48 11 MR. GILMORE: With respect to tax returns,
00:37:50 12 obviously the defendant has an obligation to file those
00:37:53 13 anyway. But we would certainly welcome her being
00:37:56 14 obligated to do that as part of her conditions.

00:37:59 15 THE COURT: What that really probably ought
00:38:02 16 to be changed to is -- because, as counsel notes, she
00:38:07 17 has to do that anyway. But provide copies, is really
00:38:11 18 what that should say, to the United States Probation
00:38:14 19 Office.

00:38:14 20 MR. GILMORE: And there is a provision, Your
00:38:16 21 Honor, in paragraph 103: Defendant shall provide the
00:38:20 22 probation office with access to any requested financial
00:38:23 23 information. So to that extent, they could certainly
00:38:27 24 ask for that as a part of that.

00:38:28 25 THE COURT: How do you feel about

00:38:30 1 prohibition from working as a bookkeeper or engaging in,
00:38:33 2 preparing, or filing anybody else's tax returns?

00:38:38 3 MR. GILMORE: It's certainly troubling under
00:38:41 4 the facts of this case, Your Honor, the thought of her
00:38:43 5 preparing other people's returns. However, I'm not in
00:38:46 6 a position to say in this case that there's any evidence
00:38:50 7 of her filing fraudulent tax returns on behalf of other
00:38:53 8 individuals or as to herself. The returns in this case
00:38:57 9 were joint returns, so it wasn't as if it were a very
00:39:01 10 clear case where there was an overstatement or
00:39:04 11 understatement.

00:39:04 12 THE COURT: How about being a bookkeeper?

00:39:04 13 MR. GILMORE: And with respect to being a
00:39:06 14 bookkeeper --

00:39:07 15 THE COURT: That's kind of a -- what is a
00:39:11 16 bookkeeper? That's probably a pretty wide swath of
00:39:16 17 employment potential.

00:39:19 18 MR. GILMORE: It covers a lot of potential
00:39:21 19 areas of handling information, compiling information,
00:39:24 20 inputting information. And frankly, Your Honor --

00:39:26 21 THE COURT: It might be hard to enforce.

00:39:29 22 MR. GILMORE: It might be hard to enforce.
00:39:32 23 And this is a case where the government, frankly, wants
00:39:33 24 to get paid back. So we don't necessarily want to
00:39:36 25 restrict her from being able to make lawful income.

00:39:39 1 However, we certainly share the Court's skepticism with
00:39:43 2 regard to these issues.

00:39:45 3 However, I would also note, Your Honor, that
00:39:46 4 with respect to filing tax returns for others, that does
00:39:48 5 require a filing with the IRS to receive a PTIN number.
00:39:53 6 That is a process that's managed by the IRS
00:39:56 7 independently. She would have to certify any criminal
00:40:00 8 convictions, including this conviction. And the IRS
00:40:02 9 could then assess on its own merits whether it wants to
00:40:06 10 give her one or not.

00:40:07 11 So again, for that reason we are not
00:40:09 12 insisting on any of those provisions, because we think
00:40:11 13 there's an administrative alternative.

00:40:13 14 THE COURT: Interesting.

00:40:15 15 Any other aspect of counsel's argument that
00:40:17 16 you'd like to respond to?

00:40:20 17 MR. GILMORE: Oh, many, Your Honor.

00:40:21 18 This is a case -- again, it is our intent to
00:40:25 19 adhere to the language of the plea in which we are going
00:40:28 20 to recommend a sentence at the low end of the guideline
00:40:32 21 range as determined by this Court. And that's what
00:40:34 22 we're doing, the bottom of the range in this case, Your
00:40:38 23 Honor.

00:40:39 24 And the reasons for that are many. You've
00:40:43 25 heard an argument that: Well, garden variety Social

00:40:49 1 Security cases get variances, and they often receive
00:40:54 2 probationary sentences, et cetera.

00:40:55 3 Your Honor, every case is different. And
00:40:58 4 you could have -- you could imagine very simple cases
00:41:01 5 where that is exactly what happens, where someone lies
00:41:03 6 once, they collect some money, and they get caught, and
00:41:06 7 they go on probation. But that is not this case.
00:41:09 8 This is a case where the defendant engaged in this
00:41:13 9 conduct for more than 15 years. So it is not an
00:41:17 10 isolated event; it's something that happened year over
00:41:20 11 year, concealing the fact that all the while that she's
00:41:23 12 collecting this money with respect to these alleged
00:41:26 13 disabilities, that she wasn't working, that she wasn't
00:41:31 14 able to work, and she hid that from the government all
00:41:34 15 that time racking up all of this money, \$208,000 --
00:41:39 16 actually, \$208,669.80 from the Social Security
00:41:44 17 Administration. And that's a problem, Your Honor.
00:41:47 18 The Social Security administration, although it's very
00:41:50 19 easy to lump all government programs together, this is
00:41:53 20 one that we all pay into with the hope that if something
00:41:56 21 happened to us, there would be some kind of safety net.
00:41:59 22 It is there to protect the disabled. It is there to
00:42:02 23 protect the elderly. And it is going bankrupt because
00:42:05 24 of people like the defendant who steal, who are not
00:42:11 25 entitled to the money and take it anyway. They steal

00:42:14 1 it, and they pick up income on the side from other
00:42:18 2 things like their employment, other government benefits,
00:42:21 3 like in this case. And it's because of that that our
00:42:23 4 government is where it is with respect to its finances,
00:42:26 5 the Social Security program in particular. And so
00:42:28 6 there is a need for punishment with respect to this case
00:42:31 7 and sending an appropriate message of deterrence as to
00:42:34 8 that conduct.

00:42:35 9 This defendant, this is not a situation
00:42:38 10 where she lied one time and then let it sit. She
00:42:44 11 actually doubled down on the crime in 2023 when there
00:42:48 12 was an appeal of a finding against her about how much
00:42:53 13 she owed back to the government. She appealed that, and
00:42:58 14 then she affirmatively asserted that she had not been
00:43:00 15 able to work since 2008. All the while she's been
00:43:03 16 preparing more than 3,500 tax returns for various
00:43:06 17 clients, had the ability to travel, had the ability to
00:43:10 18 do all these things. She was not entitled to any of
00:43:13 19 that money. So it is not an isolated event.

00:43:16 20 THE COURT: So, in other words, all of this
00:43:17 21 travel kind of undercuts the argument of her
00:43:20 22 disabilities?

00:43:21 23 MR. GILMORE: In my book it does, Your
00:43:24 24 Honor. And the government has never said that she had
00:43:26 25 whatever level of disability she claimed. That's not

00:43:30 1 been the focus of the argument. The focus is on the
00:43:33 2 fact that she concealed the money. We've never
00:43:35 3 conceded the degree of the disability which she claimed.
00:43:38 4 We've certainly never done.

00:43:38 5 THE COURT: She's been able to do a whole
00:43:40 6 lot while disabled.

00:43:41 7 MR. GILMORE: Certainly.

00:43:43 8 And adding to that the fact that she appears
00:43:53 9 to have engaged in other forms of fraud in the course of
00:43:56 10 committing the fraud on the Social Security program;
00:43:59 11 claiming unemployment benefits, for example, more than
00:44:03 12 \$20,000 worth, while simultaneously running a tax
00:44:07 13 business.

00:44:08 14 So it is an egregious offense. It is not
00:44:11 15 just some garden variety of fraud on the government.
00:44:14 16 It's something that happened over and over. She had
00:44:17 17 opportunities to not lie about it, but instead she chose
00:44:20 18 to make new lies about it.

00:44:22 19 And with respect to history and
00:44:24 20 characteristics, Your Honor, this is not a defendant who
00:44:26 21 has never walked into a courtroom before. She comes
00:44:28 22 before the Court with a criminal history category II.
00:44:32 23 She has prior convictions. She has engaged in breaking
00:44:37 24 and entering. She has engaged in criminal mischief on
00:44:40 25 more than one occasion, false information to a police

00:44:43 1 officer.

00:44:44 2 Then you get to the fact that -- well, and I
00:44:47 3 didn't mention this, Your Honor, but the way this whole
00:44:50 4 case got started was because she impersonated one of her
00:44:56 5 daughters to the Social Security program so that she
00:44:59 6 could divert their money back into her bank account.

00:45:05 7 Social Security, as a part of its process, will not only
00:45:08 8 pay the person who is disabled allegedly, but they may
00:45:12 9 also pay minors who are also in the household. In this
00:45:15 10 case it was a child who had become emancipated. And
00:45:19 11 she impersonated that child on more than one occasion to
00:45:23 12 try to get the money diverted away from the child and
00:45:27 13 into her hands. That's how this case all started.

00:45:30 14 So again, this is multiple lies, multiple
00:45:33 15 opportunities to be truthful, and she continued to
00:45:35 16 double down on her lies.

00:45:37 17 And then back to -- on that theme of lies,
00:45:40 18 going back to the history and characteristics of this
00:45:42 19 defendant, then you get into how she has behaved with
00:45:46 20 respect to this Court. The fact that she has lied
00:45:49 21 directly to this Court in pleadings to enable her to go
00:45:53 22 on a cruise. All the while she's supposed to be
00:45:57 23 working in Florida. The fact that she failed to report
00:46:00 24 her housing situation to the probation office. The fact
00:46:04 25 that she failed to notify them of charges. This is the

00:46:08 1 character of this defendant, Your Honor.

00:46:09 2 And all of that together, I think, does
00:46:12 3 result in a guideline sentence being appropriate in this
00:46:15 4 case at the low end.

00:46:16 5 With respect to the motion for departure,
00:46:20 6 here is the problem that the government has with this
00:46:23 7 motion: It's all based on what she says in the
00:46:29 8 documents that she assembled. None of it is
00:46:31 9 independently corroborated by the Court. So the Court,
00:46:35 10 as a part of its process in preparing the presentence
00:46:38 11 report, seeks an opportunity to go independently review
00:46:42 12 the medical records and the mental health records. The
00:46:45 13 defendant denied that, refused to let the Court conduct
00:46:48 14 its own inquiry into the defendant's entire medical and
00:46:51 15 mental health history. I would like to see that
00:46:54 16 information, because I wonder what's in there and if it
00:46:57 17 all comports with what she has claimed with respect to
00:47:00 18 her filings on the downward departure motion. The
00:47:04 19 problem is we don't have that information. All we have
00:47:05 20 is the documents that she's assembled and supplied to
00:47:09 21 the Court.

00:47:09 22 And although I'm sympathetic to the
00:47:11 23 position, I'm also mindful of the fact that her very own
00:47:15 24 children in the PSR, and I know the Court's read it, all
00:47:18 25 three children separately interviewed accuse the

00:47:20 1 defendant of manipulating and malingering, falsifying
00:47:26 2 her medical condition to suit her needs. And so it's
00:47:31 3 in the face of that kind of information from her
00:47:34 4 children juxtaposed against the fact that she wouldn't
00:47:40 5 allow the Court to go and independently access that
00:47:43 6 information, I think basically it just destroys any
00:47:46 7 credibility that this argument has.

00:47:49 8 And although I don't dispute she has some
00:47:51 9 conditions, Your Honor, BOP is more than equipped to
00:47:54 10 handle the medical problems of inmates. And there are
00:47:59 11 many facilities; there are specialized facilities if
00:48:02 12 necessary. But that is not an excuse. What she's
00:48:05 13 doing here has echos of what she did to get the money in
00:48:09 14 this case. She's using an illness to try to get a
00:48:12 15 benefit for herself. And I feel like she's doing that
00:48:15 16 here in this court now in the same way, is simply trying
00:48:18 17 to use it as a way to not go to prison.

00:48:20 18 So for all these reasons, Your Honor, we
00:48:22 19 think that this is a case where the bottom end of the
00:48:24 20 guideline range as determined by this Court is
00:48:27 21 appropriate, and that's what we would ask the Court to
00:48:28 22 impose.

00:48:29 23 THE COURT: Okay. Thank you.

00:48:30 24 Do you want to say anything, Mrs. Workman?

00:48:34 25 MS. SMITH: I do, Your Honor. Not a whole

00:48:36 1 lot, because actually Mr. Gilmore has been very
00:48:39 2 professional. He picked this up secondary as well. We
00:48:42 3 both did.

00:48:45 4 Regarding the benefits that -- how the case
00:48:50 5 came to be found was allegedly she tried to get a
00:48:55 6 child's benefits. I want the Court to understand, of
00:48:58 7 that \$208,000, \$145,000 were benefits that were paid to
00:49:03 8 her. The remainder were paid to her adult children who
00:49:08 9 had dependent benefits. She is being held accountable
00:49:11 10 for all of it. Okay. She's not avoiding
00:49:15 11 responsibility for anything like that.

00:49:19 12 Secondly, the documentation of the illness.
00:49:25 13 You know, all I can say is she's a very private person.
00:49:28 14 I don't know that I would want a probation officer and a
00:49:32 15 prosecutor looking at all of my treatment notes either.
00:49:35 16 But we've done what we have. There's nothing to refute
00:49:40 17 that. And, in fact, the probation officer seemed to
00:49:43 18 accept it while kind of minimizing it.

00:49:47 19 The children, they have -- two of the
00:49:50 20 children have recanted, the two girls, particularly
00:49:56 21 Echo. And she actually filed something on Sunday of
00:49:59 22 this week. And she has done a 180, Your Honor. I
00:50:04 23 don't know if you saw it. But she -- and she's done
00:50:09 24 another one in June that was part of the sentencing
00:50:13 25 memo. She no longer thinks that her mother is

00:50:17 1 malingering.

00:50:18 2 So, you know, I appreciate Mr. Gilmore
00:50:23 3 requesting the bottom of the range. I wish the range
00:50:26 4 was lower.

00:50:28 5 But, Your Honor, you know, I talked to Mr.
00:50:32 6 Wilson, who represented Mrs. Workman the first go, and
00:50:35 7 he wrote an excellent sentencing memo and did a very
00:50:40 8 good job. And he felt like he had failed Mrs. Workman.
00:50:43 9 So you can imagine how I feel today that you're not
00:50:46 10 giving her acceptance of responsibility when Judge Boyle
00:50:51 11 did. So I feel like I have failed her too. And I feel
00:50:55 12 like my words are not adequate to explain to you how
00:50:59 13 sick this woman is, how sorry she is.

00:51:03 14 We discussed her right to allocate, which
00:51:06 15 she understands completely. To be honest, she's not
00:51:10 16 feeling well at all, and her blood sugar is high. And
00:51:15 17 I'm afraid she can't do it physically. I hope you will
00:51:18 18 accept on her behalf from me her sincere remorse and
00:51:24 19 apology to the Court and to the United States.

00:51:30 20 If she had to do it all over again, she
00:51:32 21 would never have claimed these benefits. She doesn't
00:51:35 22 want to be here. She certainly doesn't want to go to
00:51:38 23 prison.

00:51:38 24 And unless the Court has any other
00:51:40 25 questions, I have nothing further to say.

00:51:42 1 I would rely on our sentencing memo, Your
00:51:45 2 Honor, and all the documents submitted therewith.
00:51:48 3 Thank you.

00:51:48 4 THE COURT: Thank you for your very diligent
00:51:52 5 advocacy and your very thoughtful representation.
00:51:55 6 There's a great deal of time you've put into it.

00:51:59 7 Did you want to respond?

00:52:00 8 MR. GILMORE: One thing, not to respond, Your
00:52:03 9 Honor, but just to note. The government was obligated
00:52:09 10 under the plea agreement to approach and address the
00:52:11 11 Court with regard to defendant's efforts in this case to
00:52:14 12 assist the government. There was a debriefing in this
00:52:18 13 case; however, it was really not something the
00:52:21 14 government could utilize. It didn't implicate anyone
00:52:25 15 else in any criminal conduct. So we're not making any
00:52:27 16 motion in this case.

00:52:28 17 THE COURT: All right.

00:52:29 18 Ms. Workman, I'm sorry about your not
00:52:31 19 feeling well today. If you'd like to stay seated and
00:52:34 20 say anything to the Court, you don't have to stand up to
00:52:38 21 do it. If you want to decline, as your attorney
00:52:44 22 suggests you will, that's fine too. Whatever you wish.

00:52:51 23 THE DEFENDANT: I'm trying real hard not to
00:52:53 24 throw up.

00:52:53 25 (Discussion had off the record between the

00:52:56 1 Defendant and defense counsel.)

00:52:56 2 THE COURT: Does she need something?

00:53:08 3 MS. SMITH: She has water, Your Honor.

00:53:09 4 THE COURT: Thank you, Marshal.

00:53:10 5 It's a very serious offense, theft of
00:53:13 6 government property. The government has been eloquent
00:53:21 7 in its statements of the impact of such thievery. And
00:53:33 8 it has been ongoing for such a long period of time.

00:53:39 9 And this defendant's criminal history
00:53:45 10 includes prior contact with the criminal justice system
00:53:51 11 that, coupled with other aspects as noted of the
00:54:02 12 defendant's background and history, paint a picture of
00:54:07 13 someone who believes the means justify the end. And
00:54:16 14 the fallout has been immense in her life, including the
00:54:26 15 disassociation of family members with her.

00:54:34 16 This defendant has created a great many
00:54:36 17 difficulties for herself and has had many opportunities
00:54:43 18 before today to conform her behavior. And I think this
00:54:51 19 underscores a very significant mental health problem.
00:54:57 20 Despite the fact that many of the records are not
00:55:02 21 included, there is a strong suggestion that she's been
00:55:12 22 involuntarily committed many times and by various family
00:55:18 23 members, and she has been diagnosed with depression. I
00:55:34 24 think there's some very deep issues that also you,
00:55:46 25 counsel, have written of.

00:55:53 1 I start at the high end of the guidelines,
00:56:01 2 at 30 months. But I come down to 18 by way of granting
00:56:10 3 your motion for a downward variance. And I think the
00:56:17 4 driver of that are mental health issues.

00:56:29 5 Eighteen months is a sentence that's
00:56:32 6 sufficient but not greater than necessary, and I show
00:56:39 7 the defendant grace.

00:56:52 8 You'll be supervised for three years.

00:56:56 9 You are subject to the mandatory conditions
00:56:58 10 of supervision: You can't break any law, possess a
00:57:01 11 weapon or drugs.

00:57:02 12 The standard conditions adopted by this
00:57:05 13 Court in the standing order made a part of its record in
00:57:08 14 May of 2021 are incorporated by reference.

00:57:10 15 And the following special conditions.

00:57:13 16 Before I announce them, I would like to
00:57:16 17 speak about your time in prison. I'll recommend you to
00:57:19 18 a federal facility with a medical component in light of
00:57:29 19 your presentation of medical issues concerning.

00:57:36 20 I will recommend a comprehensive mental
00:57:39 21 health assessment of you, wherever you go, in the
00:57:44 22 Federal Bureau of Prisons. And any mental health
00:57:46 23 treatment you can get, please take advantage of.

00:57:51 24 Special conditions sound similar:

00:57:59 25 You'll participate in a mental health

00:58:02 1 treatment program as directed by the probation office.

00:58:13 2 You'll participate as directed in a program
00:58:16 3 approved by that office for the treatment of addiction
00:58:18 4 or dependency, which will include urinalysis testing and
00:58:22 5 other detection measures and might require you to reside
00:58:26 6 or participate in a residential treatment facility.
00:58:29 7 You've got a history of drug-seeking behavior and
00:58:33 8 illegitimate prescription drug use to warrant that.

00:58:38 9 You will submit to a search, at any time,
00:58:41 10 with or without a warrant, and by any law enforcement or
00:58:44 11 probation officer, of your person, your property, your
00:58:46 12 house, your residence, your vehicle, your papers, your
00:58:51 13 computer, other electronic communication or data storage
00:58:54 14 devices or media, and the effects thereof, but there has
00:58:57 15 to be a reasonable suspicion to think you're violating a
00:59:01 16 condition of supervised release or engaging in unlawful
00:59:04 17 conduct. Sometimes probation officers have to search
00:59:08 18 their clients not because they have any suspicion; it
00:59:11 19 could be a matter of policy under a certain set of
00:59:13 20 circumstances. You'll agree to that in the officer's
00:59:17 21 lawful discharge of the officer's duties without a
00:59:20 22 warrant.

00:59:24 23 I will not -- and I don't need to put this
00:59:28 24 in the Court's judgment, but I simply announce here that
00:59:37 25 I'm not going to prohibit you from being a bookkeeper or

00:59:43 1 engaging in preparing or filing any federal or state
00:59:46 2 income tax return. But obviously you've got to follow
00:59:52 3 the law.

00:59:58 4 There's a substantial amount of restitution
01:00:01 5 due and owing: \$208,669.80.

01:00:08 6 I'm not going to impose a fine.

01:00:10 7 In order to monitor your repayment of
01:00:12 8 restitution, you will not incur new credit charges or
01:00:15 9 open additional lines of credit without the approval of
01:00:17 10 the probation office.

01:00:19 11 You will provide the probation office with
01:00:21 12 access to any requested financial information, including
01:00:26 13 but not limited to pay stubs, bank statements, and your
01:00:38 14 federal and state income tax returns.

01:00:44 15 You are prohibited from contacting Travis
01:00:51 16 Workman, Shavanaux Rogers, Echo Facer, and Cheyenne
01:00:58 17 Workman directly or indirectly without prior
01:01:02 18 authorization from your probation officer.

01:01:07 19 Now, it's a matter of law that that
01:01:14 20 condition doesn't become in effect until you start
01:01:23 21 supervised release. And I would think that if there is
01:01:30 22 communication between you and any of these people that
01:01:36 23 they want, they participate in while you're in custody,
01:01:41 24 you could reasonably show that to your probation
01:01:45 25 officer, that there's an ongoing dialogue at that point.

01:01:51 1 And any reasonable request to continue contact would be
01:01:57 2 allowed. But you've got a real history that's
01:02:02 3 demonstrated of being manipulative. And simply because
01:02:07 4 a child today says one thing, I'm not certain that that
01:02:18 5 should control, or I find that should not control when
01:02:23 6 I'm crafting supervised release conditions for a day and
01:02:31 7 time in the future. No doubt members of your family
01:02:37 8 are very stressed too about your sentence. And
01:02:46 9 affirmations made to defense counsel or to the probation
01:02:52 10 office I don't view as controlling in light of the
01:02:54 11 history of what you've done to your children over the
01:02:59 12 years. But hopefully there can be a positive
01:03:06 13 relationship going forward. And I know that if the
01:03:12 14 probation office feels that to be true, based on
01:03:15 15 information in the officer's possession at the time this
01:03:20 16 condition matures, you're not going to have any problem
01:03:23 17 getting that permission.

01:03:26 18 Okay. You'll surrender any and all firearms
01:03:31 19 you own or are in your possession. I would have
01:03:34 20 thought we would have already gotten that straight.
01:03:36 21 But that's a condition of supervised release.

01:03:42 22 If you have any unpaid restitution or
01:03:45 23 special assessments -- and there's a \$100 special
01:03:49 24 assessment as well -- you'll notify the probation office
01:03:52 25 of any material change in economic circumstances that

01:03:55 1 might affect your ability to pay. And you're going to
01:03:59 2 have to make restitution in accordance with the law.

01:04:02 3 Cooperate in the collection of DNA.

01:04:04 4 The restitution goes to the Social Security
01:04:07 5 Administration at the address provided in the amount of
01:04:11 6 which I've spoken. And it's due immediately. But I
01:04:16 7 don't think you've got the ability to pay it today. So
01:04:19 8 you'll start paying it, if you haven't already, through
01:04:22 9 the Inmate Financial Responsibility Program at the rate
01:04:25 10 of \$25 a quarter. I'll give you 60 days to get settled
01:04:29 11 when you get out of prison; you'll start paying it back
01:04:32 12 at the rate of \$100 a month. If the probation office
01:04:36 13 thinks a different payment plan, schedule, or amount is
01:04:41 14 appropriate, I give the officer the leeway to change
01:04:43 15 that.

01:04:50 16 There is the matter of deciding whether you
01:04:53 17 show up in prison on your own or whether you go in
01:04:59 18 custody. And I'm inclined to let you go on your own
01:05:07 19 and to give you 45 days to get your affairs in order.
01:05:12 20 But I don't know where you're going to have to show up.
01:05:15 21 And you're going to have to get there.

01:05:17 22 And somebody with all of the financial
01:05:20 23 issues that you've described, how is she going to show
01:05:25 24 up in some state far away?

01:05:29 25 MS. SMITH: There's another issue, Your

01:05:32 1 Honor. I do want to try to get her extended medical
01:05:37 2 records to give to probation to hopefully send to the
01:05:42 3 designation and classification center so that the BOP
01:05:45 4 will have that. I know it will save time for them, and
01:05:49 5 it will be better for her. And I honestly don't see
01:05:52 6 that happening in 45 days. I certainly don't see it
01:05:55 7 happening if she goes into custody today.

01:06:00 8 In terms of transporting, she has two
01:06:02 9 friends here today, Dr. Neichbaum [phonetically] and
01:06:07 10 Mrs. Benton, and they will -- I believe have agreed to
01:06:13 11 transport her. She had discussed that with them.

01:06:16 12 There's still the matter of her personal
01:06:18 13 belongings and clearing out the place where she lives,
01:06:21 14 because she can't afford to stay there if she's not
01:06:25 15 there.

01:06:26 16 But if the Court would consider -- I know
01:06:27 17 this is a big ask, but mostly it's for me because it's
01:06:31 18 going to take me a while to get these record, Your
01:06:33 19 Honor -- 60 days.

01:06:35 20 And she will self-report, Your Honor. I
01:06:38 21 don't think that will be an issue. She was here today.

01:06:41 22 THE COURT: Let me ask the probation office:
01:06:43 23 Are there any changes you would recommend to comply with
01:06:46 24 relevant sentencing law?

01:06:47 25 THE PROBATION OFFICER: No, Your Honor.

01:06:53 1 THE COURT: Counts Two and Three are
01:06:55 2 dismissed.

01:06:57 3 Do you want to be heard further?

01:07:02 4 MR. GILMORE: No, Your Honor. Under the
01:07:03 5 circumstances I do think it would be good for there to
01:07:06 6 be a runway for whatever facility to be ready to receive
01:07:09 7 her.

01:07:10 8 THE COURT: All right. So given the
01:07:16 9 concerns that I've expressed about your client's
01:07:19 10 performance while under supervision, and where I've
01:07:27 11 taken away acceptance of responsibility, the path is
01:07:33 12 typically from the table into the jail cell.

01:07:38 13 MS. SMITH: Right.

01:07:39 14 THE COURT: But I will give this defendant
01:07:46 15 an ability not to report sooner than 45 days from today.
01:07:51 16 And I leave it up to the Bureau of Prisons as to whether
01:07:54 17 that's the 46th day or the 72nd day. I don't know.
01:08:00 18 But I'm not going to give more than 45 days for her to
01:08:06 19 continue to be under supervision.

01:08:11 20 So if you come forward, counsel, and collect
01:08:13 21 the order of surrender and go over that with your
01:08:16 22 client.

01:08:34 23 (Discussion had off the record between the
01:09:14 24 Defendant and defense counsel.)

01:09:14 25 MS. SMITH: Your Honor, I'm not sure you're

01:09:16 1 aware; she is not being actively supervised right now.
01:09:19 2 She doesn't get visits and that kind of stuff. I have
01:09:23 3 sent, like, these proposals for travel to several
01:09:25 4 different officers, and they've all told me that they
01:09:28 5 will do whatever the Court wants to do. So I want to
01:09:32 6 be clear myself that if something comes up, or if I have
01:09:35 7 a question or anything else like that, whom I need to
01:09:39 8 contact today.

01:09:43 9 THE COURT: I'm going to ask the probation
01:09:48 10 officer.

01:09:48 11 THE PROBATION OFFICER: Do you want me to
01:09:50 12 talk to them afterwards?

01:09:52 13 MS. SMITH: That would be great.

01:09:53 14 THE COURT: Okay.

01:09:57 15 THE PROBATION OFFICER: I'm letting the
01:09:59 16 supervising officer know in an email the results of
01:10:01 17 today.

01:10:02 18 MS. SMITH: If somebody can contact me in
01:10:05 19 the next day or so, that would be great.

01:10:06 20 THE COURT: Thank you, counsel.

01:10:07 21 You can appeal if you think there's
01:10:09 22 something wrong with the sentence or the conviction.
01:10:11 23 Move quickly if that's what you want to do. The
01:10:14 24 defendant normally has 14 days from the date that the
01:10:17 25 judgment goes on the docket. If you can't afford the

01:10:19 1 cost of an appeal, you can apply for permission to
01:10:21 2 appeal for free. And if you request, the clerk would be
01:10:24 3 happy to fill out the notice of appeal.

01:10:26 4 But I have great confidence in counsel that
01:10:29 5 if you asked her to appeal, she would.

01:10:34 6 Okay. I think we've got it finished. So
01:10:39 7 thank you, and we'll move on to the next case.

8 (Concluded at 3:21 p.m.)

9 - - -

10
11 **C E R T I F I C A T E**

12
13 I certify that the foregoing is a correct transcript
14 from the record of proceedings in the above-entitled
15 matter.

16
17 /s/ Tracy L. McGurk_____

____10/1/2025____

18 Tracy L. McGurk, RMR, CRR

Date