

NONPRECEDENTIAL DISPOSITION

To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals**For the Seventh Circuit****Chicago, Illinois 60604**

Submitted May 5, 2026*

Decided May 5, 2026

BeforeFRANK H. EASTERBROOK, *Circuit Judge*AMY J. ST. EVE, *Circuit Judge*DORIS L. PRYOR, *Circuit Judge*

No. 24-2518

UNITED STATES OF AMERICA,
*Plaintiff-Appellee,**v.*AKEEM ASAD,
*Defendant-Appellant.*Appeal from the United States District
Court for the Northern District of
Illinois, Eastern Division.

No. 1:17-CR-00040(2)

John J. Tharp, Jr.,
*Judge.***ORDER**

Akeem Asad appeals the sentence imposed after he pleaded guilty to drug-trafficking offenses. He argues that the district court should not have increased his offense level based on two prior state convictions for selling drugs. Because the court

* We have agreed to decide the case without oral argument because the briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C).

No. 24-2518

Page 2

sentenced Asad in accordance with controlling circuit precedent, we see no error and affirm.

Asad pleaded guilty in 2024 to conspiring to engage in a pattern of racketeering activity, *see* 18 U.S.C. § 1962(d), and conspiring to possess with intent to distribute and distribute controlled substances, *see* 21 U.S.C. § 846. In a presentence investigation report, the probation officer determined that each of Asad's two prior Minnesota drug convictions, *see* MINN. STAT. ANN. § 152.021.1(1), constituted a "controlled substance offense" under the career-offender provision of the Sentencing Guidelines, *see* U.S.S.G. § 4B1.2(b), which, when combined with Asad's age and the nature of the charged offense, classified him as a career offender under § 4B1.1. Asad objected that the career-offender guideline overstated his criminal history and unjustly increased his sentencing range, from 70–87 months to 188–235 months. The district court disagreed, applied the Guideline, and sentenced Asad to 143 months.

On appeal, Asad contends that the Minnesota convictions are not controlled substance offenses under the Guidelines. He argues that these convictions involved a state statute that is categorically broader than those in the Controlled Substances Act, 21 U.S.C. § 802, which criminalize only optical and geometric isomers. If neither Minnesota conviction is a "controlled substance offense" under the Controlled Substances Act, he continues, his offense levels under the Guidelines should also decrease, yielding a lower guidelines range. Recognizing that this contention is foreclosed by our decision in *United States v. Ruth*, 966 F.3d 642, 651, 654 (7th Cir. 2020), in which we held that the career-offender guideline need not mirror the Controlled Substances Act's definition of "controlled substances," he seeks only to preserve his argument.

As an initial matter, the parties dispute whether Asad forfeited this argument by failing to raise it when objecting to the career-offender enhancement. But regardless of whether he failed to raise it (in which case our review would be for plain error) or not (de novo review), the argument is precluded by *Ruth*.[†] In *Ruth* we held that the

[†] To the extent the government contends that Asad waived the argument, precluding appellate review altogether, we disagree. Asad objected to his career-offender status, even if he did not specifically refer to *Ruth*. And we see no strategic reason why Asad would withhold an argument that, if accepted, would dramatically reduce his sentencing range. *See United States v. Hammond*, 996 F.3d 374, 399–400

No. 24-2518

Page 3

career-offender guideline defined “controlled substance” broadly to “include state-law offenses” involving controlled substances. *Id.* Minnesota Statute § 152.021.1(1), under which Asad was convicted, prohibits the sale of cocaine as well as “the salts and isomers of cocaine,” many of which are legal under federal law. *See* MINN. STAT. ANN. § 152.01; 21 U.S.C. § 812. Because *Ruth* forecloses Asad’s argument, the district court did not err in applying the enhancement, and it remains binding precedent in this circuit. *See, e.g., United States v. Jones*, 56 F.4th 455, 503 (7th Cir. 2022); *United States v. Ramirez*, 52 F.4th 705, 712 n.19 (7th Cir. 2022); *United States v. Wallace*, 991 F.3d 810, 817 (7th Cir. 2021).

AFFIRMED.

(7th Cir. 2021). In any event, the district court could not have disregarded *Ruth* and accepted the argument.

UNITED STATES DISTRICT COURT

Northern District of Illinois

UNITED STATES OF AMERICA

v.

AKEEM ASAD

JUDGMENT IN A CRIMINAL CASE

Case Number: 1:17-CR-00040(2)

USM Number: 22394-041

Blaire C Dalton
Defendant's Attorney

THE DEFENDANT:

- ☒ pleaded guilty to count(s) One and Two of the Superseding Indictment.
☐ pleaded nolo contendere to count(s) which was accepted by the court.
☐ was found guilty on count(s) after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

<u>Title & Section / Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18:1962-7480.F Racketeering	12/01/2018	1
21:846=Cd.F Conspiracy To Distribute Controlled Substance	12/01/2018	2

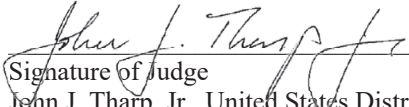
The defendant is sentenced as provided in pages 2 through 8 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- ☐ The defendant has been found not guilty on count(s)
☒ Count(s) Forfeiture Counts 1 and 3 are dismissed as to Defendant Akeem Asad on the motion of the United States.

It is ordered that the defendant must notify the United States Attorney for this District within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States Attorney of material changes in economic circumstances.

August 27, 2024

Date of Imposition of Judgment


Signature of Judge
John J. Tharp, Jr., United States District Judge

Name and Title of Judge

08/27/2024

Date

DEFENDANT: AKEEM ASAD

CASE NUMBER: 1:17-CR-00040(2)

IMPRISONMENT

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of: 143 months on each of Counts 1 and 2, to be served concurrently. (NOTE: the sentence imposed credits the defendant with 45 months spent in state custody on related state cases on the expectation that those 45 months would not be credited by BOP as time served on this sentence. In other words, the sentence in this case would have been 188 months (the low end of the Guideline range) but for the crediting of those 45 months by the Court.)

- ☒ The court makes the following recommendations to the Bureau of Prisons: 1) Defendant participate in RDAP; 2) Designation to a facility close to Chicago.
- ☒ The defendant is remanded to the custody of the United States Marshal.
- ☐ The defendant shall surrender to the United States Marshal for this district:
- ☐ at on
- ☐ as notified by the United States Marshal.
- ☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:
- ☐ before 2:00 pm on
- ☐ as notified by the United States Marshal.
- ☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows: _____

Defendant delivered on _____ to _____ at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: AKEEM ASAD

CASE NUMBER: 1:17-CR-00040(2)

SUPERVISED RELEASE

Upon release from imprisonment, you shall be on supervised release for a term of:
3 years as to Count 1; 4 years as to Count 2; to be served concurrently.

MANDATORY CONDITIONS OF SUPERVISED RELEASE PURSUANT TO 18 U.S.C § 3583(d)

The court imposes those conditions identified by checkmarks below:

During the period of supervised release:

- ☒ (1) you shall not commit another Federal, State, or local crime.
- ☒ (2) you shall not unlawfully possess a controlled substance.
- ☐ (3) you shall attend a public, private, or private nonprofit offender rehabilitation program that has been approved by the court, if an approved program is readily available within a 50-mile radius of your legal residence. [Use for a first conviction of a domestic violence crime, as defined in § 3561(b).]
- ☐ (4) you shall register and comply with all requirements of the Sex Offender Registration and Notification Act (42 U.S.C. § 16913).
- ☒ (5) you shall cooperate in the collection of a DNA sample if the collection of such a sample is required by law.
- ☒ (6) you shall refrain from any unlawful use of a controlled substance AND submit to one drug test within 15 days of release on supervised release and at least two periodic tests thereafter, up to 104 periodic tests for use of a controlled substance during each year of supervised release. [This mandatory condition may be ameliorated or suspended by the court for any defendant if reliable sentencing information indicates a low risk of future substance abuse by the defendant.]

DISCRETIONARY CONDITIONS OF SUPERVISED RELEASE PURSUANT TO 18 U.S.C § 3563(b) AND 18 U.S.C § 3583(d)

Discretionary Conditions — The court orders that you abide by the following conditions during the term of supervised release because such conditions are reasonably related to the factors set forth in § 3553(a)(1) and (a)(2)(B), (C), and (D); such conditions involve only such deprivations of liberty or property as are reasonably necessary for the purposes indicated in § 3553 (a)(2) (B), (C), and (D); and such conditions are consistent with any pertinent policy statement issued by the Sentencing Commission pursuant to 28 U.S.C. 994a. The court imposes those conditions identified by checkmarks below:

During the period of supervised release:

- ☒ (1) you shall provide financial support to any dependents if you are financially able to do so.
- ☐ (2) you shall make restitution to a victim of the offense under § 3556 (but not subject to the limitation of § 3663(a) or § 3663A(c)(1)(A)).
- ☐ (3) you shall give to the victims of the offense notice pursuant to the provisions of § 3555, as follows: [REDACTED]
- ☒ (4) you shall seek, and work conscientiously at, lawful employment or, if you are not gainfully employed, you shall pursue conscientiously a course of study or vocational training that will equip you for employment.
- ☐ (5) you shall refrain from engaging in the following occupation, business, or profession bearing a reasonably direct relationship to the conduct constituting the offense, or engage in the following specified occupation, business, or profession only to a stated degree or under stated circumstances; (if checked yes, please indicate restriction(s)) [REDACTED].
- ☒ (6) you shall not knowingly meet or communicate with any person whom you know to be engaged, or planning to be engaged, in criminal activity and shall not:
 - ☐ visit the following type of places: [REDACTED].
 - ☒ knowingly meet or communicate with the following persons: [REDACTED].
- ☒ (7) you shall refrain from ☐ any or ☒ excessive use of alcohol (defined as ☐ having a blood alcohol concentration greater than 0.08; or ☐), and from any use of a narcotic drug or other controlled substance, as defined in § 102 of the Controlled Substances Act (21 U.S.C. § 802), without a prescription by a licensed medical practitioner.
- ☒ (8) you shall not possess a firearm, destructive device, or other dangerous weapon.
- ☒ (9) ☒ you shall participate, at the direction of a probation officer, in a substance abuse treatment program, which may include urine testing up to a maximum of 104 tests per year.
 - ☐ you shall participate, at the direction of a probation officer, in a mental health treatment program, and shall take any medications prescribed by the mental health treatment provider.

DEFENDANT: AKEEM ASAD

CASE NUMBER: 1:17-CR-00040(2)

☐ you shall participate, at the direction of a probation officer, in medical care; (if checked yes, please specify: _____.)

- ☐ (10) (intermittent confinement): you shall remain in the custody of the Bureau of Prisons during nights, weekends, or other intervals of time, totaling _____ [no more than the lesser of one year or the term of imprisonment authorized for the offense], during the first year of the term of supervised release (provided, however, that a condition set forth in **§3563(b)(10)** shall be imposed only for a violation of a condition of supervised release in accordance with **§ 3583(e)(2)** and only when facilities are available) for the following period _____.
- ☐ (11) (community confinement): you shall reside at, or participate in the program of a community corrections facility (including a facility maintained or under contract to the Bureau of Prisons) for all or part of the term of supervised release, for a period of _____ months.
- ☐ (12) you shall work in community service for _____ hours as directed by a probation officer.
- ☐ (13) you shall reside in the following place or area: _____, or refrain from residing in a specified place or area: _____.
- ☒ (14) you shall not knowingly leave from the federal judicial district where you are being supervised, unless granted permission to leave by the court or a probation officer. The geographic area of the Northern District of Illinois currently consists of the Illinois counties of Cook, DuPage, Grundy, Kane, Kendall, Lake, LaSalle, Will, Boone, Carroll, DeKalb, Jo Daviess, Lee, McHenry, Ogle, Stephenson, Whiteside, and Winnebago.
- ☒ (15) you shall report to the probation office in the federal judicial district to which you are released within 72 hours of your release from imprisonment. You shall thereafter report to a probation officer at reasonable times as directed by the court or a probation officer.
- ☒ (16) ☒ you shall permit a probation officer to visit you ☒ at any reasonable time or ☐ as specified: _____,
☒ at home ☒ at work ☒ at school ☒ at a community service location
☒ other reasonable location specified by a probation officer
☒ you shall permit confiscation of any contraband observed in plain view of the probation officer.
- ☒ (17) you shall notify a probation officer within 72 hours, after becoming aware of any change in residence, employer, or workplace and, absent constitutional or other legal privilege, answer inquiries by a probation officer. You shall answer truthfully any inquiries by a probation officer, subject to any constitutional or other legal privilege.
- ☒ (18) you shall notify a probation officer within 72 hours if after being arrested, charged with a crime, or questioned by a law enforcement officer.
- ☐ (19) (home confinement)
- ☐ (a)(i) (home incarceration) for a period of _____ months, you are restricted to your residence at all times except for medical necessities and court appearances or other activities specifically approved by the court.
- ☐ (a)(ii) (home detention) for a period of _____ months, you are restricted to your residence at all times except for employment; education; religious services; medical, substance abuse, or mental health treatment; attorney visits; court appearances; court-ordered obligations; or other activities pre-approved by the probation officer.
- ☐ (a)(iii) (curfew) for a period of _____ months, you are restricted to your residence every day.
☐ from the times directed by the probation officer; or ☐ from _____ to _____.
- ☐ (b) your compliance with this condition, as well as other court-imposed conditions of supervision, shall be monitored by a form of location monitoring technology selected at the discretion of the probation officer, and you shall abide by all technology requirements.
- ☐ (c) you shall pay all or part of the cost of the location monitoring, at the daily contractual rate, if you are financially able to do so.
- ☐ (20) you shall comply with the terms of any court order or order of an administrative process pursuant to the law of a State, the District of Columbia, or any other possession or territory of the United States, requiring payments by you for the support and maintenance of a child or of a child and the parent with whom the child is living.
- ☐ (21) (deportation): you shall be surrendered to a duly authorized official of the Homeland Security Department for a determination on the issue of deportability by the appropriate authority in accordance with the laws under the Immigration and Nationality Act and the established implementing regulations. If ordered deported, you shall not remain in or enter the United States without obtaining, in advance, the express written consent of the United States Attorney General or the United States Secretary of the Department of Homeland Security.
- ☒ (22) you shall satisfy such other special conditions as ordered below.
- ☒ (23) you shall submit your person, property, house, residence, vehicle, papers, or office to a search conducted by a United States Probation Officer(s). Failure to submit to a search may be grounds for revocation of release. You shall warn any other occupants that the premises may be subject to searches pursuant to this condition. An officer(s) may conduct a search pursuant to this condition only when reasonable suspicion exists that the defendant has violated a condition of his supervision and that the areas to be searched contain evidence of this violation. Any search must be conducted at a reasonable time and in a reasonable manner.
- ☐ (24) Other: _____

DEFENDANT: AKEEM ASAD

CASE NUMBER: 1:17-CR-00040(2)

SPECIAL CONDITIONS OF SUPERVISED RELEASE PURSUANT TO 18 U.S.C. 3563(b)(22) and 3583(d)

The court imposes those conditions identified by checkmarks below:

During the term of supervised release:

- ☐ (1) if you have not obtained a high school diploma or equivalent, you shall participate in a General Educational Development (GED) preparation course and seek to obtain a GED within the first year of supervision.
- ☐ (2) you shall participate in an approved job skill-training program at the direction of a probation officer within the first 60 days of placement on supervision.
- ☒ (3) you shall, if unemployed after the first 60 days of supervision, or if unemployed for 60 days after termination or lay-off from employment, perform at least 20 hours of community service per week at the direction of the probation office until gainfully employed. The total amount of community service required over your term of service shall not exceed 400 hours.
- ☐ (4) you shall not maintain employment where you have access to other individual's personal information, including, but not limited to, Social Security numbers and credit card numbers (or money) unless approved by a probation officer.
- ☒ (5) you shall not incur new credit charges or open additional lines of credit without the approval of a probation officer unless you are in compliance with the financial obligations imposed by this judgment.
- ☒ (6) you shall provide a probation officer with access to any requested financial information requested by the probation officer to monitor compliance with conditions of supervised release.
- ☒ (7) within 72 hours of any significant change in your economic circumstances that might affect your ability to pay restitution, fines, or special assessments, you must notify the probation officer of the change.
- ☐ (8) you shall file accurate income tax returns and pay all taxes, interest, and penalties as required by law.
- ☐ (9) you shall participate in a sex offender treatment program. The specific program and provider will be determined by a probation officer. You shall comply with all recommended treatment which may include psychological and physiological testing. You shall maintain use of all prescribed medications.
- ☐ You shall comply with the requirements of the Computer and Internet Monitoring Program as administered by the United States Probation Office. You shall consent to the installation of computer monitoring software on all identified computers to which you have access and to which the probation officer has legitimate access by right or consent. The software may restrict and/or record any and all activity on the computer, including the capture of keystrokes, application information, Internet use history, email correspondence, and chat conversations. A notice will be placed on the computer at the time of installation to warn others of the existence of the monitoring software. You shall not remove, tamper with, reverse engineer, or in any way circumvent the software.
- ☐ The cost of the monitoring shall be paid by you at the monthly contractual rate, if you are financially able, subject to satisfaction of other financial obligations imposed by this judgment.
- ☐ You shall not possess or use at any location (including your place of employment), any computer, external storage device, or any device with access to the Internet or any online computer service without the prior approval of a probation officer. This includes any Internet service provider, bulletin board system, or any other public or private network or email system
- ☐ You shall not possess any device that could be used for covert photography without the prior approval of a probation officer.
- ☐ You shall not view or possess child pornography. If the treatment provider determines that exposure to other sexually stimulating material may be detrimental to the treatment process, or that additional conditions are likely to assist the treatment process, such proposed conditions shall be promptly presented to the court, for a determination, pursuant to **18 U.S.C. § 3583(e)(2)**, regarding whether to enlarge or otherwise modify the conditions of supervision to include conditions consistent with the recommendations of the treatment provider.
- ☐ You shall not, without the approval of a probation officer and treatment provider, engage in activities that will put you in unsupervised private contact with any person under the age of 18, and you shall not knowingly visit locations where persons under the age of 18 regularly congregate, including parks, schools, school bus stops, playgrounds, and childcare facilities. This condition does not apply to contact in the course of normal commercial business or unintentional incidental contact
- ☐ This condition does not apply to your family members: [Names]
- ☐ Your employment shall be restricted to the judicial district and division where you reside or are supervised, unless approval is granted by a probation officer. Prior to accepting any form of employment, you shall seek the approval of a probation officer, in order to allow the probation officer the opportunity to assess the level of risk to the community you will pose if employed in a particular capacity. You shall not participate in any volunteer activity that may cause you to come into direct contact with children except under circumstances approved in advance by a probation officer and treatment provider.

DEFENDANT: AKEEM ASAD

CASE NUMBER: 1:17-CR-00040(2)

- ☐ You shall provide the probation officer with copies of your telephone bills, all credit card statements/receipts, and any other financial information requested.
- ☐ You shall comply with all state and local laws pertaining to convicted sex offenders, including such laws that impose restrictions beyond those set forth in this order.
- ☒ (10) you shall pay to the Clerk of the Court any financial obligation ordered herein that remains unpaid at the commencement of the term of supervised release, at a rate of not less than 10% of the total of your gross earnings minus federal and state income tax withholdings.
- ☒ (11) you shall not enter into any agreement to act as an informer or special agent of a law enforcement agency without the prior permission of the court.
- ☐ (12) you shall pay to the Clerk of the Court \$ [redacted] as repayment to the United States of government funds you received during the investigation of this offense. (The Clerk of the Court shall remit the funds to [redacted] (list both Agency and Address.)
- ☐ (13) if the probation officer determines that you pose a risk to another person (including an organization or members of the community), the probation officer may require you to tell the person about the risk, and you must comply with that instruction. Such notification could include advising the person about your record of arrests and convictions and substance use. The probation officer may contact the person and confirm that you have told the person about the risk.
- ☐ (14) You shall observe one Reentry Court session, as instructed by your probation officer.
- ☐ (15) Other: [redacted]

DEFENDANT: AKEEM ASAD

CASE NUMBER: 1:17-CR-00040(2)

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Restitution</u>	<u>Fine</u>	<u>AVAA Assessment*</u>	<u>JVTA Assessment**</u>
TOTALS	\$200.00	\$0.00	\$0.00	\$0.00	\$0.00

- ☐ The determination of restitution is deferred until . An *Amended Judgment in a Criminal Case (AO 245C)* will be entered after such determination.
- ☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to **18 U.S.C. § 3664(i)**, all nonfederal victims must be paid before the United States is paid.

- ☐ Restitution amount ordered pursuant to plea agreement \$
- ☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to **18 U.S.C. § 3612(f)**. All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to **18 U.S.C. § 3612(g)**.
- ☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:
- ☐ the interest requirement is waived for the .
- ☐ the interest requirement for the is modified as follows:
- ☐ The defendant's non-exempt assets, if any, are subject to immediate execution to satisfy any outstanding restitution or fine obligations.

* Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, Pub. L. No. 115-299.

** Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22.

*** Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: AKEEM ASAD

CASE NUMBER: 1:17-CR-00040(2)

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

A ☒ Lump sum payment of \$200 due immediately.☐ balance due not later than , or☐ balance due in accordance with ☐ C, ☐ D, ☐ E, or ☐ F below; or**B** ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or**C** ☐ Payment in equal (e.g., weekly, monthly, quarterly) installments of \$ over a period of (e.g., months or years), to commence (e.g., 30 or 60 days) after the date of this judgment; or**D** ☐ Payment in equal (e.g., weekly, monthly, quarterly) installments of \$ over a period of (e.g., months or years), to commence (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or**E** ☐ Payment during the term of supervised release will commence within (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or**F** ☐ Special instructions regarding the payment of criminal monetary penalties:

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Case Number Defendant and Co-Defendant Names (including defendant number)	Total Amount	Joint and Several Amount	Corresponding Payee, if Appropriate
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See above for Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

☐ The defendant shall pay the cost of prosecution.☐ The defendant shall pay the following court cost(s):☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) AVAA assessment, (5) fine principal, (6) fine interest, (7) community restitution, (8) JVT A assessment, (9) penalties, and (10) costs, including cost of prosecution and court costs.

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

UNITED STATES OF AMERICA) Case No. 17 CR 40-2
)
v.)
)
)
AKEEM ASAD,) Chicago, Illinois
) August 27, 2024
Defendant.) 10:01 a.m.

TRANSCRIPT OF PROCEEDINGS - SENTENCING
BEFORE THE HONORABLE JOHN J. THARP, JR.

APPEARANCES:

For the Government: MR. MORRIS O. PASQUAL
ACTING UNITED STATES ATTORNEY
BY: MR. PAUL J. MOWER
MS. SIVASHREE SUNDARAM
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For the Defendant: LAW OFFICE OF WILLIAM SEAN STANTON
BY: MR. WILLIAM S. STANTON
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Court Reporter: KELLY M. FITZGERALD, RMR, CRR
Official Court Reporter
219 South Dearborn Street, Room 2304A
Chicago, Illinois 60604
Telephone: (312) 818-6626
kmftranscripts@gmail.com

* * * * *

PROCEEDINGS REPORTED BY STENOTYPE
TRANSCRIPT PRODUCED USING COMPUTER-AIDED TRANSCRIPTION

1 (Proceedings heard in open court:)

2 THE CLERK: 17 CR 40-2, U.S.A. v. Akeem Asad.

3 THE COURT: Good morning.

4 Would counsel put your appearances on the record,
5 please.

6 MR. MOWER: Good morning, Your Honor. Paul Mower and
7 Siva Sundaram on behalf of the United States.

8 THE COURT: Good morning.

9 MR. STANTON: Good morning, Your Honor. Bill Stanton
10 for Mr. Asad.

11 THE COURT: All right.

12 Good morning, Mr. Asad.

13 THE DEFENDANT: Good morning, Your Honor.

14 PROBATION OFFICER: Good morning, Your Honor. Kathy
15 Kiriklakis, U.S. Probation.

16 THE COURT: Good morning.

17 All right. We're here for sentencing. Are we
18 prepared to go forward?

19 MR. MOWER: Yes, Your Honor.

20 MR. STANTON: Yes, Your Honor.

21 THE COURT: All right. The first thing we're going
22 to do, Mr. Asad, is swear you in because you will have the
23 opportunity to make a statement during the course of this
24 hearing today if you choose to do so. You're not required to
25 do so. But if you do choose to make a statement, understand

1 that you'll be under oath, and it can be a crime to make false
2 statements under oath so you want to make sure everything you
3 say is accurate and truthful. And understand that anything
4 you do say will be considered by the Court in assessing the
5 appropriate sentence to impose.

6 Would you please stand and raise your right hand.

7 THE DEFENDANT: Yes, Your Honor.

8 (Defendant sworn.)

9 THE COURT: All right. I want to make sure I have
10 reviewed everything that was submitted in conjunction with
11 this hearing.

12 In addition to reviewing the plea agreement, I have
13 reviewed the presentence investigation report and the update
14 to that report, the probation office sentencing recommendation
15 and the updated sentencing recommendation, the government's
16 version of the offense, the defendant's version of the
17 offense, and the government's sentencing memoranda and the
18 defendant's sentencing memoranda.

19 Is there anything else that either party has
20 submitted?

21 MR. MOWER: Yes, Your Honor. The government filed a
22 response to the defendant's sentencing memorandum, and then
23 the defendant filed a supplement to their sentencing
24 memorandum.

25 THE COURT: Ah, I did see this. I just left it off

1 my list here. And I also have seen the defendant's. And I
2 did see the defendant's supplement as well relating to the
3 pretrial detention issue.

4 Okay. Anything else?

5 MR. STANTON: Judge, just to confirm, the defendant's
6 sentencing memo did have character letters and certificates
7 attached to it.

8 THE COURT: Yes, the memoranda with the attachments.

9 MR. STANTON: Great. Thank you.

10 THE COURT: Okay. Is either party intending to
11 present any witness testimony other than perhaps Mr. Asad's
12 allocution?

13 MR. MOWER: No, Your Honor.

14 MR. STANTON: No, Your Honor.

15 THE COURT: All right. Then we'll move on to
16 consideration of the presentence investigation report which
17 the Court ordered to assist in sentencing Mr. Asad.

18 The parties have had an opportunity to review that
19 report and to submit objections to the factual materials set
20 forth in the report and to the sentencing guideline
21 calculation it provides.

22 Turning first to the factual matters set forth in the
23 PSR, does the defendant have any factual corrections that need
24 to be made?

25 MR. STANTON: No, Your Honor.

1 THE COURT: Government?

2 MR. MOWER: No, Your Honor.

3 THE COURT: All right. Then we'll move on to
4 discussion of the calculation of the advisory sentencing
5 guideline range which the Supreme Court directed district
6 courts to begin all sentencing proceedings by correctly
7 calculating the applicable guideline range. That was in,
8 among other cases, *Gall v. United States*.

9 In terms of the objections, the defendant I think has
10 several objections to the calculation, first relating to the
11 enhancement for the offense level to reflect his status as
12 leader and organizer of criminal activity that was -- it
13 involved more than five individuals.

14 MR. STANTON: Yes, Your Honor.

15 THE COURT: Do you want to elaborate or --

16 MR. STANTON: Briefly, Judge.

17 For the most part, I'll rely on our written
18 submission. I would note that there's an assignment here in
19 part based upon informal authority or respect that are not
20 necessarily considerations that are given under the guidelines
21 and the application notes to them.

22 I did in the interim since we have filed this
23 sentencing memorandum had the opportunity to review Your
24 Honor's comments at Mr. Asad's brother's sentencing hearing.
25 As far as it relates to that, I think we stand on our

1 objection to a four-level leadership enhancement. In the
2 alternative, we would ask Your Honor to consider a three-level
3 enhancement as a manager/supervisor rather than a
4 leader/organizer to distinguish Akeem from Rakim. And the
5 basis for that is these leadership enhancements are aimed or
6 geared towards relative responsibility. And it's our
7 position, again, in the alternative, that Akeem's relative
8 responsibility is less than his brother Rakim's and would thus
9 be deserving of a three-level enhancement under 3B1.1(b)
10 rather than a four-level enhancement under 3B1.1(a).

11 Thank you.

12 THE COURT: Mr. Mower?

13 MR. MOWER: Yes, Your Honor.

14 As the Court is aware, we believe that the 3B1.1
15 factors weigh heavily in favor of a four-point enhancement
16 here.

17 The defendant established and then led the Minnesota
18 branch of the LAFAs drug trafficking organization. The record
19 easily establishes that that branch was extensive and played a
20 major role in the overall LAFA enterprise based upon its
21 scope, its duration, the variety of distributed narcotics, the
22 number of participants, the repeated encounters with law
23 enforcement over a multiyear period, and the large agreed-upon
24 drug weight that's at issue in this case.

25 By the defendant's own admission, he controlled

1 numerous people as part of that extensive drug operation,
2 including his own mother, his girlfriend, multiple other LAFA
3 members. We listed several of them in our pleadings but just
4 to name a few, Individual JS, Individual AA, Carey Hinton, and
5 Reggie Jones.

6 The defendant recruited people to that scheme. He
7 kept an outside share of the proceeds of that scheme. He
8 provided the drugs from his own suppliers, one of whom was
9 located out of state. And then he and his brothers were
10 widely considered among the most influential LAFA members.

11 So for all those reasons, we think a four-level
12 enhancement is appropriate.

13 THE COURT: All right. I agree, Mr. Stanton, that
14 the fact that Mr. Asad was respected doesn't necessarily
15 equate to a conclusion that he was a leader of this
16 enterprise. But there are other facts, as Mr. Mower has just
17 pointed out, that do support the enhancement here.

18 Plainly, Mr. Asad did direct others. In his plea
19 agreement in the factual basis, he admitted he directed his
20 mother, his girlfriend, several other individuals. He
21 admitted to directing them to deliver heroin at specific
22 places and times on a variety of different occasions.

23 He -- I think it is an accurate assessment of the
24 evidentiary record before the Court to conclude that he was
25 the leader of the efforts to extend the LAFAs' drug

1 trafficking activities from Chicago to Duluth. There's even a
2 report of law enforcement in Minnesota that indicated that
3 this group that Mr. Asad was the leader of was the accountable
4 group for introducing substantial heroin trafficking in
5 Duluth.

6 He recruited individuals. Apart from directing their
7 activities, he recruited individuals to participate in the
8 drug trafficking activity, most notably Mr. Jones who has
9 testified about his drug dealing in Duluth, how he was
10 recruited by Mr. Asad to start transporting heroin up to
11 Duluth on a regular basis in substantial quantities.

12 It's clear that Mr. Asad had a larger share of the
13 proceeds of the drug trafficking crime. That's evident from,
14 among other things, the many photographs of Mr. Asad with
15 large sums of cash. We know the cash from these transactions
16 was going to Mr. Asad because even in one controlled buy that
17 the Minnesota law enforcement did with an individual who was
18 not Mr. Asad, they had marked bills that they used in the
19 transaction. The next day when Mr. Asad was arrested, he had
20 those marked bills on his person. The money clearly flowed to
21 Mr. Asad from this drug trafficking in Duluth. Mr. Jones'
22 testimony also corroborates that conclusion.

23 So I think it's clear that he was a leader and
24 organizer of the LAFA activity, drug trafficking activity in
25 Duluth. There was certainly more to the LAFA enterprise than

1 drug trafficking in Duluth, but that was a substantial
2 component of it. And it's, again, clear for the reasons I've
3 noted that Mr. Asad was the leader and organizer of that
4 activity. So I think the four-level enhancement is warranted,
5 and I'll overrule that objection.

6 Moving on, I think the defendant also objects, and
7 this objection would moot the issue of leadership on the --
8 the leadership enhancement. But as I understand it, the
9 defendant objects to the application of the career offender
10 provision in 4B1.1.

11 MR. STANTON: That's correct, Judge. And we don't
12 necessarily object to the eligibility of it, of Mr. Asad. We
13 object to the application of it from the standpoint that
14 Mr. Asad is a career offender based on prior drug dealing
15 activities, two cases that, as Your Honor knows, were part of
16 the Duluth, Minnesota, drug trafficking on behalf of the
17 LAFAs.

18 We cited a number of cases in our memorandum where
19 although eligible, the district court chose not to apply the
20 career offender enhancement to the defendant based upon a
21 variety of factors. But typically what -- when that happens,
22 when the career offender enhancement has not been applied
23 based on the case law, it's not applied to drug only offenders
24 as opposed to career offenders that have a history of
25 violence. And the data that we researched backs up the fact

1 that judges more often choose to decline the career offender
2 enhancement for drug only offenders as opposed to violent
3 offenders.

4 So --

5 THE COURT: Let me just understand your argument.
6 When you're saying decline to impose the career offender, I
7 mean, there's two issues. There's does the career offender
8 guideline apply when one goes through the rules and
9 instructions inherent in the guidelines that dictate whether
10 that enhancement applies or not. Then there's the alternative
11 question of if the enhancement applies, does it overweight the
12 seriousness of the criminal record and should it be considered
13 and reweighted in the 3553 analysis.

14 Are you basing your argument on the latter position,
15 or are you arguing that if one faithfully applies the
16 instructions in the guidelines, the career offender does not
17 apply?

18 MR. STANTON: No, I think under the guidelines,
19 technically Mr. Asad is eligible for the career offender
20 guideline.

21 THE COURT: All right. So you're advancing this as a
22 3553 argument, not a guideline calculation argument per se.

23 MR. STANTON: Correct.

24 THE COURT: Okay. All right. Understanding that
25 then, I concur that the career offender guideline applies.

1 You know, what sentence gets produced and, you know, the
2 assessment of the appropriateness of the guideline sentence in
3 consideration of all the other issues that have to be taken
4 into account as a 3553 issue.

5 But in terms of the career offender guideline itself,
6 I conclude that it does apply. Mr. Asad was 18 at the time of
7 this offense. This offense is a controlled substance offense,
8 or controlled substance felony offense, and he has at least
9 two prior crimes of prior controlled substance felonies in
10 Minnesota. And it's appropriate to consider those prior
11 convictions as part of Mr. Asad's criminal history by
12 operation of Note 4 to Section 2E1.1 which is the racketeering
13 guideline which notes that the prior conviction should be
14 counted as criminal history, not as an increase in the offense
15 level. And when we consider them as part of the criminal
16 history, they meet the prerequisite for being -- having two
17 prior controlled substances offenses.

18 So I think that the career offender guideline does
19 apply. That increases the offense level to level 34 pursuant
20 to Section 4B1.1(b)(2) and puts Mr. Asad in criminal history
21 category VI which I don't understand the parties to have any
22 dispute that that's the correct criminal history whether one
23 applies the career offender enhancement or not. So the career
24 offender provision will apply.

25 Were there any other objections to the guideline

1 calculations?

2 MR. STANTON: Judge, just to comment on your last
3 point, while we agree that 14 criminal history points are
4 properly calculated, again, probably later in my presentation,
5 we will make an argument under 4A1.3(b) that that overstates
6 Mr. Asad's criminal history.

7 THE COURT: Sure. I understand that.

8 PROBATION OFFICER: Your Honor, I just wanted to note
9 the original PSI report that was -- that we prepared in
10 September 2023, the old guidelines were in effect, and counsel
11 just mentioned the 14 criminal history points. If you look
12 at -- because when we did the updated PSI, we didn't list the
13 change to that guideline. Let me see when that was prepared.
14 April.

15 All right. So in paragraph -- I apologize. In our
16 original presentence report, paragraph 69 should reflect that
17 he would get one additional point rather than two because it
18 changes. So he would be -- have a criminal history score of
19 14, but then because the career offender, he's category VI
20 anyway. But I just wanted to note that for the record.

21 THE COURT: Thank you. And the government registered
22 an objection on that point as well so --

23 PROBATION OFFICER: Okay.

24 THE COURT: -- which is well taken.

25 So the calculation is that Mr. Asad has 14 criminal

1 history points, not 15; but, again, that does not affect his
2 classification as a criminal history category of VI. And,
3 again, he would be criminal history category VI
4 notwithstanding the number of criminal history points in view
5 of the two prior felony controlled substance offenses.

6 All right. Were there any other issues with respect
7 to the guideline calculations that either party had?

8 MR. MOWER: No, Your Honor.

9 MR. STANTON: No, Your Honor. We would agree that
10 the three points for acceptance should then come off.

11 THE COURT: Yes. So I'll run through the guideline
12 calculation so it's clear on the record.

13 The PSR reflects a total offense level of 31 and a
14 criminal history category of VI. I concur with those
15 calculations. They're based on the November 2023 guideline
16 manual. The convictions on Counts 1 and 2 group because the
17 only racketeering activity in Count 1 is drug trafficking, and
18 that is the activity in -- that is the subject of Count 2 as
19 well.

20 The base offense level is 19 on that group pursuant
21 to 2E1.1(a) which is the racketeering guideline. And we go
22 with a 19 offense level because that offense level -- or
23 because the offense level on the group counts based on drug
24 quantity would only be 16 pursuant to 2D1.1(a)(5) and (c)(12).

25 2E1.1(a) tells us to use 19 when that is greater than

1 the base offense level for the grouped counts. So the base
2 offense level is 19.

3 There are no specific offense characteristics, no
4 victim related adjustments, no role in the offense -- or
5 excuse me. There is a role in the offense adjustment of four
6 levels which we've just discussed pursuant to Section 3B1.1(a)
7 as a leader/organizer of criminal activity involving more than
8 five people. There's no obstruction of justice enhancement,
9 but there is a career offender adjustment which increases the
10 offense level to 34.

11 The PSR recommends, the parties agree, the Court
12 agrees that Mr. Asad warrants a reduction in offense level of
13 three levels to reflect his acceptance of responsibility and
14 timely notification of his intent to enter a plea of guilty.
15 That reduces the offense level from 34 to the final level of
16 31.

17 The criminal history category, again, based on 14
18 criminal history points is criminal history category VI.

19 The combination of offense level 31 and criminal
20 history category VI produces an advisory sentencing guideline
21 range of 188 to 235 months, a supervised release range on
22 Count 1 of one to three years, on Count 2, four to five years,
23 and a fine range of 40,000 to \$5 million.

24 Any other issues, comments, questions regarding the
25 guideline calculation?

1 MR. MOWER: No, Your Honor.

2 MR. STANTON: No, Your Honor.

3 THE COURT: All right. Then we'll proceed to
4 discussion and consideration of all the other factors in
5 addition to the guideline range that the Court is required to
6 take into account in determining the appropriate sentence.

7 I'll hear first from Mr. Mower on behalf of the
8 government, then Mr. Stanton on behalf of Mr. Asad.

9 Then Mr. Asad, once your lawyer has made his comments
10 and arguments on your behalf, that's the point where you will
11 have the opportunity to address the Court yourself, again, if
12 you choose to do so. If you choose not to do so, that will
13 not be held against you.

14 Mr. Mower.

15 MR. MOWER: Thank you, Your Honor.

16 As the Court is aware, the government has recommended
17 a 211-month sentence in this case. And that recommendation is
18 based upon the defendant's drug trafficking, which was
19 significant; the defendant's leadership role within that drug
20 trafficking organization, as well as the nature of some of the
21 people that he directed; and then, third, how that drug
22 trafficking fit into and was used to perpetuate the larger
23 LAFA racketeering enterprise that sits at the heart of this
24 case. So I'll try to touch briefly on each of those areas.

25 First, as it relates to the defendant's drug

1 trafficking, the breadth of the narcotics at issue here is
2 significant. Methamphetamine, MDMA, and heroin and as the
3 government highlighted in its sentencing memo, the defendant's
4 drug ring in Minnesota was largely responsible for the
5 significant rise of heroin in the city of Duluth between 2011
6 and 2015 when he was the leader of that drug trafficking ring.
7 And as co-defendant Reginald Jones described it, the LAFAs
8 essentially introduced that town to heroin which is a
9 significant aggravating factor.

10 And that is just what the defendant personally
11 trafficked or directed to be trafficked in Minnesota. Of
12 course as part of the larger LAFA conspiracy, other LAFA
13 members, including his brother, also trafficked in other
14 substances, including crack cocaine, all products that are not
15 only incredibly addictive but also wreck havoc on drug users,
16 their families, and their surrounding communities.

17 During the other sentencing proceedings in this case,
18 this Court has categorized such substances as poison, and I
19 think that moniker continues to apply to this particular
20 defendant.

21 And then on top of simply the drug types that the
22 defendant peddled, there is also the extended length of time
23 that he committed this misconduct. He trafficked drugs from
24 at least 2011 through 2015, so a four-year period. This was
25 not a one-time drug transaction or a momentary lapse of

1 judgment or even a short-term crime spree. This was a
2 repeated and persistent distribution of deadly narcotics for
3 years. And, in fact, despite being an adult in his early 20s,
4 the defendant never had any legitimate employment throughout
5 this time which meant that he essentially sustained himself
6 slowly through his drug dealing.

7 I think it's reasonable to infer from the record that
8 the defendant either directed or personally engaged in
9 hundreds if not thousands of individual drug transactions over
10 this lengthy period of time. And when you are dealing with
11 such a large amount of drug dealing over such a long period of
12 time, I think it can be easy to overlook the impact that even
13 a single drug deal involving these types of narcotics can have
14 on an end user or the end user's family. And here we have
15 hundreds of those unnamed victims, people who the defendant
16 exploited for his own personal gain over and over and over
17 again, people who the defendant valued only to the extent that
18 they were willing to pay significantly higher prices in
19 Minnesota than they were in Chicago. Each of those customers
20 was somebody's son or daughter, and many undoubtedly had
21 children of their own. And all of those people are unnamed
22 victims in this case to the defendant's conduct.

23 And what makes all of that even more remarkable and
24 more aggravating is that the defendant personally knows the
25 damage that can be inflicted on families by drug addiction.

1 His relationship with his own father has been ruined by his
2 father's drug use over the course of his life, and yet, the
3 defendant knowingly and intentionally chose to inflict that
4 same damage on countless other families. So the severity of
5 the defendant's drug trafficking calls for substantial
6 punishment.

7 And then of course the defendant's drug ring was not
8 a standalone entity but instead was part and parcel to the
9 LAFA racketeering enterprise which, as the Court is well
10 aware, was an extremely violent and destructive force in the
11 Jeffery Manor neighborhood in Chicago for over a decade. The
12 defendant knowingly participated in that enterprise, and he
13 knew that one of the LAFAs' primary purposes was acquiring and
14 preserving power. And I think it's beyond debate at this
15 point that the LAFAs sought to accomplish that goal through
16 numerous acts of violence, including murder, attempted murder,
17 robbery, and battery.

18 So I would respectfully push back on defense
19 counsel's earlier comments that the defendant is somehow a
20 drug-only offender. This is certainly not only a drug-only
21 case. It is far from it. And even though the defendant may
22 not be held personally responsible under the guidelines for
23 any individual acts of violence, he certainly was well
24 involved in a violent racketeering enterprise that committed
25 countless acts of violence for ten years.

1 And then on top of that, those acts of violence, we
2 have threats, intimidation, and witness tampering, and then of
3 course on top of all that, the drug trafficking that occurred
4 in two separate states.

5 The LAFAs engaged in that conduct openly and
6 notoriously with little to no regard for the illegality of
7 their behavior. Shootings committed in broad daylight,
8 fleeing from police, tampering with witnesses and victims, and
9 frankly just open contempt for the rule of law. And that
10 includes the defendant himself. Despite multiple dramatic
11 interventions by law enforcement, the defendant repeatedly
12 tried to evade arrest, and then even after being caught,
13 subsequently persisted in the same exact misconduct over and
14 over again for years.

15 In June of 2008, he led an off-duty sergeant on a
16 foot pursuit and then pointed a gun at her.

17 A few months after that, in October of 2008, he
18 forced police to wrestle another gun away from him.

19 In 2011, he ran from police across a busy
20 intersection, requiring them to use a Taser on him.

21 In 2012, when he was caught with massive amounts of
22 drugs in a hotel room, he again tried to run, assaulted an
23 officer, and again had to eventually be tased in a hotel
24 parking lot.

25 In early 2014, he was back at it, and that time he

1 was convicted of a major drug crime in Minnesota along with a
2 state sentence of 117 months' imprisonment. So a nearly
3 ten-year prison term that was hung over the defendant's head
4 which had absolutely no deterrent effect because within a few
5 short months, he was back at it again with the same drugs, in
6 the same city, with the same exact drug ring.

7 The police caught him in the act again not just one
8 time but through numerous controlled drug buys over the course
9 of several months. And once again when they tried to arrest
10 him in December of 2015, he ran again, this time in a car at
11 high rates of speed which he drove for approximately 20 miles
12 before finally being caught.

13 The nearly ten-year prison sentence was then imposed,
14 and still after all of that, he continued to live vicariously
15 through the other LAFA members who he continued to communicate
16 with and encourage in his communications from jail.

17 So the record is replete with examples of the
18 defendant's recidivism over and over and over again, often
19 months or even just weeks after receiving another criminal
20 sentence.

21 All the while the defendant wore designer watches,
22 gave his girlfriend a Mercedes-Benz, appeared in multiple LAFA
23 music videos proudly holding stacks of cash. And one of those
24 videos, the one cited on pages 2 and 3 of the government's
25 sentencing memorandum, was taken in the playground area of the

1 Trumbull Park housing complex, a public housing complex where
2 one of the LAFAs' murder victims, Deonte Hoard, grew up.

3 That is the kind of activity that the defendant and
4 other LAFAs engaged in amongst the poorest and most vulnerable
5 members of our society. And that frankly is what the LAFAs
6 stood for, power and greed, pure and simple, and they pursued
7 those goals at the expense of everybody else who resided in
8 the Jeffery Manor. The defendant knowingly participated in
9 that conspiracy and personally contributed to making it
10 succeed for years. And he wasn't just any LAFA member either.
11 He was one of the most respected LAFAs because of the illicit
12 wealth that he garnered from his drug dealing. And he was the
13 leader of the LAFAs' Minnesota-based drug ring.

14 In that leadership role, he directed numerous other
15 people, so his leadership role on the top of the organization
16 is also aggravating. And equally aggravating is the flip side
17 of that equation which is the types of people that the
18 defendant was directing in his role as a leader of the LAFA
19 enterprise. He directed his own mother, his own girlfriend,
20 and then of course the numerous other LAFA members who were
21 with him in Minnesota.

22 On top of that, he was personally involved in
23 initiating the younger teenagers in the Jeffery Manor
24 neighborhood and then grooming them for the gang's lifestyle.
25 And I think the clearest example of that that we set forth in

1 our sentencing papers is Reggie Jones who the defendant lured
2 into the LAFA enterprise by offering him money for small
3 errands when Reggie Jones was a young kid, a shorty running
4 around the Jeffery Manor, and then over time turned him into a
5 full-fledged drug mule that the defendant then used to
6 transport wholesale quantities of drugs to Minnesota, a drug
7 mule that I would add the defendant and his coconspirators
8 imposed all the risk and none of the benefit since they kept
9 all the proceeds for himself and then told Reggie Jones that
10 if you were to be caught with any drugs, he was expected to
11 take the weight on behalf of the organization.

12 So the defendant brings Reggie Jones to Minnesota,
13 and of course we know from the record in this case that
14 Minnesota is where Jones ultimately crosses paths with
15 co-defendant Mardi Lane, who Jones then ultimately drove on
16 the night that Mardi Lane killed Deonte Hoard in the Trumbull
17 Park Homes.

18 Now, of course the defendant is not directly
19 responsible for Deonte Hoard's murder. And by the time we get
20 to March of 2015, Reggie Jones was a grown man making his own
21 choices and choices for which he has appropriately been held
22 accountable by this Court. But I do think it's worth noting
23 for this record and for this defendant that one of the first
24 dominos to fall in the long, tragic chain of circumstances
25 that ultimately leads to Deonte Hoard's death and Jones's

1 involvement in that death was actually pushed by the defendant
2 years earlier when he recruited Jones as a young kid into the
3 LAFA enterprise. And I think that vignette is a tragic
4 fitting microcosm for the utter insidiousness of a
5 racketeering enterprise.

6 As I said before in other sentencing proceedings in
7 this case, a racketeering conspiracy is far more than a
8 fleeting deviation from the rules that govern society. It is
9 a deliberate, concerted attempt to systematically replace the
10 rule of law with a system that is governed by a select group
11 of individuals who are willing to do anything and hurt anybody
12 to retain their hold on power. And that often includes not
13 only exploiting people outside the organization but also
14 people within the organization whom they purport to care for.

15 And I think that's exactly what we have here with
16 this defendant. That is the damage that the LAFA street gang
17 imposed on the Jeffery Manor neighborhood and in Duluth,
18 Minnesota, by feeding themselves off the young, the weak, and
19 the vulnerable. And that is the world that the defendant
20 helped to fashion for half a decade. That is the true nature
21 and circumstances of his offense, and the import of that is
22 profound. And the government feels that the Court's sentence
23 must adequately address the severe consequences that flow from
24 it and have flown from it -- flowed from it. And we think
25 that the severity of those facts demands a guideline sentence

1 here.

2 So for all those reasons, the government requests a
3 211-month sentence and a four-year term of supervised release.

4 THE COURT: All right. Thank you, Mr. Mower.

5 Mr. Stanton.

6 MR. STANTON: Thank you.

7 Judge, the defense has requested the mandatory
8 minimum sentence here, which is 60 months, based on the nature
9 and circumstances of Akeem's involvement in this offense as
10 well as the history and characteristics of Akeem.

11 As we see far too often in these proceedings, Akeem
12 had a less than ideal childhood that contributed to his
13 involvement later on in life in the criminal justice system.
14 He was raised by his mom and his grandma. I would note that
15 his mom was 16 years old when she gave birth to his brother
16 Armeer and just 18 years old when Akeem was born. His father
17 was never really involved in his life as his dad cycled
18 through prison and substance abuse addiction. So there was no
19 positive male role model growing up. While family was
20 important to Akeem, his male influences were basically
21 nonexistent.

22 The neighborhood where he grew up was filled with
23 drugs, violence, gangs, and gambling. As just a 12-year-old
24 boy, he was shot at by Merrill Park Gangster Disciples and
25 shortly thereafter felt compelled to join the LAFAs to be

1 safer and to get some protection.

2 You read in the presentence report that he started
3 using marijuana at that young age of 12, eventually on a daily
4 basis, also moved on to alcohol, ecstasy, and eventually cough
5 syrup with codeine in it.

6 When he was just 21 years old, he was offered a
7 chance to get away from Jeffery Manor and to go up to
8 Minnesota to deal drugs there. And he did take that
9 opportunity and run with it.

10 Two drug convictions resulted up there while he's
11 dealing drugs on behalf of this organization, resulting in 45
12 months of imprisonment.

13 I would note that he did use that time in the
14 Minnesota county jail and the Minnesota Department of
15 Corrections to better himself. He got his high school diploma
16 there. He took some college courses and vocational classes,
17 and he got back to religion. I think he completed a period of
18 boot camp there and then was on supervised release for six
19 months where he had obtained employment working in the laundry
20 room of two separate hotels as well as volunteering at a boys
21 and girls club. And he had began a relationship that
22 eventually would produce his younger son who is now three
23 years old. Unfortunately, his younger son was born after
24 Akeem was incarcerated in connection with this case. He's
25 only met him in the visiting room of the MCC.

1 In speaking to Akeem, though, I think he fully
2 appreciates that it's his bad decisions that have kept him out
3 of his sons' lives and away from his loved ones, and that's a
4 huge regret for him.

5 He did suffer through the pandemic at the Winnebago
6 County Jail and contracted COVID-19 there on multiple
7 occasions. We would submit that that was a harsher
8 confinement than the guidelines contemplated due to the
9 unforeseen pandemic that occurred.

10 Judge, we talk about his criminal history. I'd note
11 that all of his criminal history points come from cases when
12 he was less than 25 years old. As Your Honor is well aware,
13 there's a youthful offender departure upcoming in the new
14 November 2024 guidelines under Section 5H1.1, and I think a
15 departure in this case would be consistent with that.

16 The young man before you is now 33 years old. He has
17 no disciplinary violations at the MCC which I think goes to
18 show that while it took a while, the rule of law has been
19 instilled in him adequately at this point. He has been
20 specifically deterred from further wrongdoing, and the goal of
21 general deterrence would be accomplished by the minimum
22 sentence here, considering that he has already spent more than
23 eight years in custody for his actions in connection with this
24 organization.

25 At this point in his life, the public no longer needs

1 to be protected from Akeem, and he has been justly punished
2 for his misdeeds.

3 In contrast to others who have been previously
4 sentenced in this case, Akeem did not personally commit
5 violent acts or direct others to commit violence on behalf of
6 the gang. There was no directions of a vaguer nature to get
7 more involved in LAFA activities and go out there and protect
8 the turf or show up on a corner to show our strength. And
9 there's no gun possession by Akeem in furtherance of the drug
10 dealing up in Minnesota. He's not involved in the day-to-day
11 events in Chicago, and there's no allegations that there's any
12 violent activities or turf wars up in Minnesota while Akeem
13 was there.

14 Judge, I would submit that asking for money to be put
15 on your commissary account is a far cry from living
16 vicariously through others while you're incarcerated. I think
17 a photo of Mr. Asad wearing a watch that wasn't his or a photo
18 of a girl saying thanks for a car that he didn't buy her isn't
19 him flaunting his lavish lifestyle. He didn't pay for defense
20 attorneys for the gang or funerals on behalf of gang members,
21 didn't post bond on behalf of gang members. So I think he
22 could be contrasted to other individuals in this case.

23 So far he spent 53 months in federal custody plus
24 45 months in state custody, for a total of 98 months for his
25 involvement in this organization. And we're asking Your Honor

1 informally to credit that towards the ultimate sentence that
2 you impose in this case.

3 As I touched upon earlier, Judge, we think the career
4 offender application in this case will be draconian as it
5 would double to nearly triple the otherwise applicable
6 guideline range.

7 We submitted a number of letters attesting to Akeem's
8 good character as well as multiple certificates he's earned
9 while incarcerated. He does have a strong support system in
10 place to help him successfully reenter society. His
11 girlfriend remains supported -- supportive and he has two
12 young sons that long for his involvement in their lives.

13 THE COURT: Mr. Stanton, let me just interrupt you
14 right there. You're referring to Mr. Asad's girlfriend. Are
15 you referring to Ms. Duncan?

16 MR. STANTON: Yes, sir.

17 THE COURT: My recollection is Ms. Duncan testified
18 at the evidentiary hearing that she's not -- she's no longer
19 in a relationship with Mr. Asad.

20 MR. STANTON: Judge, it's my understanding, and if I
21 could have a moment to confer, that they were split up for a
22 period of time and have reconciled. But if I can --

23 THE COURT: Okay.

24 (Counsel and defendant conferring.)

25 MR. STANTON: Judge, according to Mr. Asad, they

1 still talk. They haven't officially rekindled anything, but
2 they do communicate.

3 THE COURT: Okay.

4 MR. STANTON: Judge, I think it's also
5 distinguishable between Akeem and his codefendants that
6 Mr. Mower mentioned family involvement and having family
7 members purchase bus tickets. It is -- can be differentiated
8 between having family members store drugs at their house or
9 make deliveries on behalf of the organization.

10 But I think the key distinguishing factor here, like
11 I said earlier, is the violence. And the government went to
12 great lengths to compare all the codefendants and the
13 sentences that they received and where Akeem fits in that
14 graph or in the grand scheme of things here. And everybody on
15 that list from what I could tell, except for Rakim, who this
16 Court found to have directed violence or encourage violence
17 was involved in murders or attempt murders or violent acts
18 that can't be likewise attributed to Akeem.

19 Judge, I would submit that a total sentence here of
20 60 months is sufficient but not greater than necessary to
21 achieve the goals of sentencing. I would ask Your Honor to
22 recommend placement in a facility near Chicago as well as
23 placement in the RDAP program. Essentially Your Honor has to
24 come up with a sentence that fits not only the offense but the
25 offender. And I think based upon the conduct over the past

1 eight years, this is a man that sits before you that doesn't
2 need further punishment to stay on the right track.

3 Thank you.

4 THE COURT: All right. Thank you, Mr. Stanton.

5 Mr. Asad, this is your opportunity to address the
6 Court, again, if you choose to do so.

7 THE DEFENDANT: Yes, Your Honor.

8 Dear Your Honor, the level of maturity and discipline
9 I've reached throughout my time incarcerated has given me
10 insight, and has changed my perspective on my previous
11 lifestyle.

12 First, to have my mother incarcerated with me has
13 been a burden, very difficult for me to deal with, neglecting
14 the ones I love to gain personal gratification and to chase
15 false desires. I am deeply remorseful for my selfless actions
16 towards my family, mainly the mothers of my children.

17 But most importantly, I'm saddened. My children are
18 being mentally and emotionally impacted by my actions. I know
19 from experience the negative effect it has on a child that's
20 fatherless. As a single mother, it's only so much she can do.
21 I remember yearning for my father to be a chaperone on field
22 trips, to support me at my basketball games and give me the
23 confidence I needed to be my best. Just being present in my
24 everyday life would have been enough.

25 Being incarcerated watching my child's birth through

1 a video, watching him grow through pictures, moments I could
2 never get back, was of the one of the most hurtful experiences
3 in my life. My oldest child is 13. I left him when he was 4.

4 Excuse me.

5 THE COURT: Take your time.

6 THE DEFENDANT: From the time he was born up until I
7 was incarcerated, I was a hands-on father, active in his
8 everyday life. Active in his every day life. A few months
9 ago, I asked him about some of the things that we did when he
10 was younger, and he said, Dad, I don't remember. I asked him
11 again, Do you remember anything? He said, No, Dad, I don't
12 remember any moments of us together. Because of the poor
13 decisions I made in my life, the only memories my son have of
14 me is prison memories. Jeopardizing my freedom and
15 opportunity to raise my children is something I would never do
16 again.

17 To my community, the CPD, and the judicial system as
18 a whole, I want to apologize for being a part of a gang that's
19 caused so much corruption and polluted the community with
20 narcotics and unnecessary violence. Your Honor, I could
21 honestly say I've come a long way from the naive, ignorant,
22 and immature young boy I once was. I know the one question
23 you and everyone else want to know is what makes this time any
24 different from the previous mistakes. I was charged with a
25 murder and an attempt murder that I know I didn't do, fighting

1 for my life. Being deprived of so many opportunities in jail
2 because of my charges have truly opened my eyes. I was
3 literally rotting in jail. I couldn't work. I couldn't go to
4 school or participate in anything because I was labeled high
5 risk. On top of that, there was a chance I may spend the rest
6 of my life incarcerated.

7 I knew from that very moment I had to change my life,
8 and if given another chance, I am going to fix my life as best
9 as I can. I was told to be thankful for the good and the bad
10 we experience in life. We never know the plan God has in
11 place for us. Instead of regretting my situation, I embrace
12 it. I've educated myself on countless of things, mainly
13 rehabbing and renovating homes. It's my passion to turn ugly
14 homes into something beautiful. I participated in a variety
15 of classes since arriving at the MCC, but more importantly,
16 Your Honor, at BOP has given me rehabilitation that I so
17 desperately needed to prepare myself for the journey ahead of
18 me.

19 Your Honor, if you have to take a chance on somebody
20 involved in this case or become a productive citizen and make
21 a drastic change with his life and turn a negative situation
22 into a positive one, I'm that person. If given a chance and
23 shown leniency, Your Honor, I will not let you down. I so
24 desperately want to be a father to my children and deter other
25 kids away from gangs and negativity. I hope and pray that you

1 see me for the man I am today. Nevertheless, I accept full
2 responsibility for my actions.

3 Your Honor, I contemplated a long time if I should
4 read this part of my letter to you because I don't want to be
5 looked at as I'm justifying gangs and gang activity. I'll
6 read it to you anyway.

7 Your Honor, so many other people that grow up in the
8 streets of Chicago were willingly or unwillingly a part of a
9 gang. It's a part of the culture. In my case and most
10 others, it was unwillingly because it was an inheritance. It
11 was passed down from us from our fathers or family members
12 that were part of these gangs. Being influenced at an early
13 age, we look at being a part of a gang as being normal and not
14 being a part of it as abnormal. We never actually get the
15 chance to see what's right or what's wrong until it's too
16 late.

17 The people I looked up to were the older guys in my
18 neighborhood which were the worst kind of role models. We see
19 the nice cars, clothes, and beautiful women and want the same
20 for ourselves. All of this is what leads us -- is what leads
21 to us committing crimes. Because we have no work ethics or
22 education, we turn to what's easy: robbing, stealing, selling
23 drugs and other acts of violence to seek the approval of
24 people we look up to and to make money.

25 We all have different reasons why we feel the need to

1 have all this money. Most of us fathers aren't present so we
2 want to help take the load of our mothers. In a black
3 culture, the people that have the most expensive fashion are
4 the popular ones. Of course now that I'm more wise, I know
5 the popular kids should be the highly educated ones. In my
6 experience, Your Honor, the gang I was a part of wasn't an
7 organized gang. We were just a group of ignorant kids that
8 thought committing crimes and being a part of a gang is cool.

9 Your Honor, in no way am I trying to justify my
10 actions or the actions of anyone on this case. All I ask is
11 that you see things from my point of view. This is a cycle in
12 the black communities, and I want to be a part of breaking
13 that cycle.

14 Thank you all for your time.

15 I mean, I don't know if it matter or not, but I
16 received another certificate in the past --

17 THE COURT: It does. Give it to Mr. Stanton.

18 MR. STANTON: May I approach?

19 THE COURT: Yes.

20 MR. STANTON: Thank you.

21 THE COURT: Has Mr. Mower seen this?

22 MR. STANTON: He has not. I'm seeing it for the
23 first time.

24 Thank you.

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

1 THE DEFENDANT: You're welcome, Your Honor.

2 THE COURT: Under Title 18 of the United States Code,
3 Section 3553(a), the Court is required to impose a sentence
4 that is sufficient but not greater than necessary to serve the
5 purposes set forth in that statute. Those purposes include
6 the need for the sentence imposed to reflect the seriousness
7 of the offense, to promote respect for the law, and to provide
8 just punishment for the offense. Also, the sentence imposed
9 should afford adequate deterrence to criminal conduct and
10 protect the public from further crimes of the defendant and
11 provide defendants with needed educational or vocational
12 training, medical care, or other correctional treatment in the
13 most effective manner.

14 The facts and circumstances that bear on these
15 objectives fall into two broad categories: first, the nature
16 and circumstances of the offense, and then the history and
17 characteristics of the defendant. The Court must also
18 consider factors such as the kinds of sentences available
19 under the law which is a broad category that includes the need
20 to consider -- to calculate and consider the advisory
21 guideline range and whether it is the appropriate sentence in
22 the case, as well as seeking to avoid unwarranted sentencing
23 disparities between defendants who have similar records and
24 have been found guilty of similar conduct.

25 Many of these facts and circumstances bear on more

1 than one of the sentencing objectives, and they often are
2 inconsistent and conflict and point in different directions in
3 terms of what they suggest the appropriate sentence in the
4 case should be.

5 I'm going to discuss the factors that I think are
6 most germane to the sentence imposed here and how they fit in
7 with the sentencing objectives.

8 We start with the seriousness of the offense. Drug
9 trafficking in -- or trafficking in controlled substances in
10 particular is a serious offense in virtually any
11 manifestation. There's a reason these -- they're called
12 controlled substances. They're dangerous. They -- some of
13 them may have legitimate uses but only when under the
14 supervision and when prescribed by health professionals. Most
15 have no redeeming qualities. They're simply poison. But
16 the -- there is a wide spectrum of seriousness of drug
17 trafficking crimes because there are many aggravating factors
18 that enhance the reprehensibility of that conduct and the
19 seriousness of that conduct. And we have many of those
20 aggravating factors here.

21 I start with, in general, consideration of the
22 quantities involved. By the time we back out the quantities
23 that were the subject of the Minnesota state court cases, the
24 remaining quantities aren't that large. But I don't agree
25 with the characterization of the defense submissions that

1 Mr. Asad was a low-level offender, a low-level drug dealer,
2 there is not the slightest doubt that Mr. Asad trafficked in
3 significantly higher quantities than he is being held
4 accountable for. That is an inference that can't be denied
5 when one considers this story of the expansion of the LAFA
6 drug trafficking activity to Duluth and the operation of that
7 activity for several years in Duluth at the scale that was
8 described, at the scale that one can derive from the trips
9 every two to three weeks by Mr. Jones carrying heroin back up
10 to Duluth for several years, from the substantial quantities
11 of cash that were recovered during searches and arrests in
12 Minnesota.

13 There's no question, Mr. Mower indicated there were
14 hundreds of transactions in Minnesota. So I don't subscribe
15 to the belief that Mr. Asad was a low-level offender or a
16 low-level drug dealer.

17 In the question of quantity, we also have to consider
18 the fact that Rakim Asad was running the Chicago operation
19 while Mr. Akeem Asad was taking care of business in Duluth.
20 It's not to say that Akeem Asad was involved in the drug
21 transactions in Chicago, and he's not being held responsible
22 for the amounts in the guideline calculation that were
23 trafficked in Chicago. He's not being held responsible even
24 for the hundreds of transactions that aren't reflected in the
25 quantities that were being -- or used in the calculations

1 based on Duluth trafficking. But he admits in his plea
2 agreement that he knew that the LAFA street gang was involved
3 in the possession and distribution of quantities of controlled
4 substances such as heroin in and around Chicago.

5 So you can't simply isolate him to a handful of
6 transactions that occurred in Duluth. He was part and parcel
7 of a much larger drug trafficking organization that included
8 Duluth for a number of years and Chicago for an even longer
9 period of time. And he was privy and knowledgeable about the
10 scope of those kinds of transactions because as some of the
11 evidence presented in the sentencing submissions show, he knew
12 what kind of money was available to his brother. He -- he
13 knew the wealth that was being accumulated by this drug
14 trafficking.

15 As -- again, as has been pointed out, he was for many
16 years unemployed, no visible means of support, but yet he was
17 living what the probation officer who he was reporting to
18 after he was put on probation from the drug trafficking
19 convictions in Minnesota, the probation officer indicated he
20 was witnessing that Mr. Asad was living a very lavish
21 lifestyle on what ostensibly was, you know, a 13 hour -- a \$13
22 an hour job doing housekeeping at a hotel, didn't compute.

23 Related to the quantities is the duration. For at
24 least four or five years, Mr. Asad was integrally involved in
25 the lavish drug trafficking activities. Those activities

1 involved multiple types of drugs which is another aggravating
2 factor, not just heroin, though that's probably the most
3 deadly of the drugs that were being dealt with, but MDA, meth,
4 cocaine, marijuana, heroin. The multiple types of drugs
5 contribute to the problem and the seriousness of the offense
6 because you're expanding your market. You're selling and
7 transacting not just with heroin addicts but with people who
8 are using other kinds of drugs. You're expanding the numbers
9 and sources of supply that you have interactions with to get
10 these drugs to sell.

11 Also aggravating are the numerous times -- and I
12 won't belabor the record, Mr. Mower summarized them quite
13 well -- in which in trying to evade law enforcement who were
14 investigating his drug trafficking activities, Mr. Asad, on
15 numerous occasions, tried to escape in manners that put others
16 in danger, other -- put the police officers in danger, put
17 civilians in danger.

18 As aggravating as all of this is, there are still
19 other factors that are even more aggravating. And I'm glad to
20 hear you apologize to your mother.

21 THE DEFENDANT: Yes, Your Honor. Thank you, Your
22 Honor.

23 THE COURT: But the idea that you would get involved
24 in a drug trafficking organization with putting your mother at
25 risk, she was a grown woman, she made her own decisions, but

1 it's hard to understand how you could involve her in this kind
2 of conduct.

3 I think the most significant fact in aggravation,
4 however, is the connection of this activity to the larger LAFA
5 racketeering activity. This activity can't be viewed in
6 isolation from its connection to the LAFA enterprise because,
7 as the government argues, this activity was integral to the
8 ability of the LAFA enterprise to continue to operate, to
9 continue to recruit new recruits who -- by reference to the
10 lavish lifestyle that leaders of the organization, including
11 Rakim and Akeem Asad were leading. This drug trafficking that
12 Mr. Asad was directly involved in supported the objectives of
13 the LAFA gang which included murders, shootings, robberies,
14 home invasions, as well as extensive drug trafficking.

15 And it's appropriate to recognize that Mr. Asad,
16 there's no evidence, or not enough evidence to link him to any
17 violent act directly. But that doesn't mean that it's
18 appropriate to ignore the nature of this organization that he
19 was serving, that he was affirmatively affiliating himself
20 with. He's not in rap videos holding a weapon, that's true.
21 He's in rap videos extolling the lifestyle and the power and
22 the intimidation of the LAFAs. So there are many aggravating
23 factors here that in their totality make this is a very
24 serious offense and one that is not at all consistent with the
25 argument that this was a low-level drug dealing crime and

1 should be sentenced as such. The sentence in this case has to
2 reflect the connection between the defendant's drug
3 trafficking and the brutal, violent LAFA enterprise.

4 In considering Mr. Asad's history and
5 characteristics, we start with his criminal record. 14
6 criminal history points in the span of something on the order
7 of five years, including prior significant substance --
8 controlled substance offenses. Those controlled substance
9 offenses are appropriately, as we've already discussed,
10 included in the guideline calculation as part of Mr. Asad's
11 criminal history and therefore are appropriately considered to
12 be predicate controlled substance offenses for application of
13 the career offender guideline.

14 The -- to Mr. Stanton's point that all of these
15 convictions were committed by the time the defendant turned 25
16 I guess is true on the one hand, but it's a little misleading.
17 There's no indication that but for the intervention of law
18 enforcement that this kind of activity was going to drop off
19 the scale once Mr. Asad reached the age of 25. Far from it.
20 At that point he had been engaged in the LAFA racketeering
21 conspiracy for at least a half a decade, and the Court sees no
22 basis to conclude that he was prepared to change his stripes
23 at that juncture.

24 I'll note, you know, I went back to look at some of
25 the materials in the -- on the detention issues and noted

1 again that even after his arrest and recorded jail calls,
2 Mr. Asad was directing people what to do with respect to drugs
3 that he had in various locations which is also further
4 evidence of his leadership role in the organization.

5 Mr. Asad does have some things going for him. It
6 does seem that he is trying to use his time in prison
7 productively to improve himself. He earned a GED in 2018.
8 We've seen many certificates reflecting his efforts to take
9 courses and learn skills and information that will help him
10 get on and stay on a productive path when he has served his
11 sentence. And I'll note that in that six--month period
12 between when he was on -- put on probation for -- or parole on
13 the Minnesota cases and when he was arrested in this case in
14 March of 2020, while there were still warning signs that I've
15 already adverted to, the lavish -- living a lavish lifestyle,
16 there's also included in the letters of support, you know, a
17 letter from his boss at that time attesting to his efforts and
18 success at performing that job and being a good co-worker,
19 never causing a problem, someone that she was willing to, you
20 know, help out and support years later, and that's worth
21 acknowledging.

22 It also has to be acknowledged to Mr. Asad's point in
23 his statement that he grew up in a different environment, an
24 environment where he had no father figure at home. His mother
25 worked hard, did have a career that -- and a job that was able

1 to support the family so there wasn't extreme poverty. But
2 you were still growing up in a very dangerous area where many
3 people turned to gangs as a substitute for what they're not
4 getting at home.

5 It's particularly unfortunate that this entire
6 episode has involved the Asad family in so many different ways
7 given that Mr. Asad's estrangement from his biological father
8 was due to that man's addiction and consequent criminal
9 record, in and out of jail during Mr. Asad's childhood. It's
10 unfortunate that probably the closest father figure that he
11 had as a result of the absence of his biological father was
12 someone who was also a heroin addict and his mother had
13 apparently a number of relationships with drug abusers. So
14 it's predictable and incredibly unfortunate that Mr. Asad had
15 to grow up in that environment.

16 But it doesn't excuse his conduct. There are many
17 people who had it significantly worse than him who don't turn
18 out to be substantial drug dealers for violent street gangs.
19 And what we've got from the Asad family, the legacy here is,
20 you know, an extreme example of how people go off the rails.
21 Father, a drug addict, nowhere to be found; mother, a
22 co-defendant now serving a four-year sentence; brother Rakim,
23 a co-defendant in this case, serving 19 years; his brother
24 Sincere who I believe has recently been discharged from the
25 Illinois Department of Corrections on a felony conviction; his

1 brother Armeer also serving recently a state sentence for --
2 or a state -- a sentence on a state court conviction. That is
3 not a recipe for success. It's not a good support network.
4 It's not going to provide -- that family history and that
5 family -- those family associations are not going to be assets
6 for Mr. Asad going forward.

7 I wanted to ask about the relationship with
8 Ms. Duncan because that can also be an asset. But while I
9 understand that a relationship continues, it's not a romantic
10 relationship. And while undoubtedly Mr. Asad will reenter his
11 children's lives when he's served this sentence, there isn't a
12 family waiting for him to take him in and make them part of
13 that family. That can be another substantial asset and force
14 for optimism in what the future holds, but that does not
15 appear to be something available to Mr. Asad at this point in
16 time. There's a lot of forecasting and prognostication in
17 this sentencing process.

18 And with respect to, you know, the assets, what
19 Mr. Asad surely has, the most powerful motivation for change
20 and leading a productive life will be reestablishing
21 relationships with his children. It is a terribly sad fact
22 that families are almost always the victims of the criminal
23 offenses that fathers commit and mothers, for that matter.
24 And while it is deeply unfortunate, Mr. Asad is not at all
25 unusual in that regard.

1 And I end up pointing out in almost every case that
2 the solicitude the defendant is showing for his family and the
3 concern for his family at the time of sentencing is greater
4 solicitude and concern than they've ever shared -- showed
5 before.

6 I know your youngest child wasn't born before you
7 were arrested.

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: But your Akeem Asad, Jr. was. And when
10 you were drug dealing and on the phone with your brother
11 talking about what kind of luxury cars did he buy, you could
12 have been taking care of your son. You should have been
13 taking care of your son.

14 Mr. Asad is now 33 years old, presumably has
15 continued to mature. He has no health issues that bear on the
16 sentence to be imposed or that are significantly mitigating.
17 He's never been diagnosed or treated for any mental health
18 issue. He does have a significant prior history of substance
19 abuse as Mr. Stanton laid out. Daily use of marijuana,
20 alcohol, long-term use of ecstasy, daily use of codeine-laced
21 cough syrups. All of that ended when his time in custody
22 began. There's no evidence to suggest that he returned to
23 that kind of substance abuse during the period that he was on
24 parole so that's a positive. But clearly drug treatment is
25 indicated here, notwithstanding the long term of

1 incarceration.

2 Those are I think the factors that I think are most
3 germane to the sentencing objectives in this case, and they
4 tie to those objectives in a number of ways. For the reasons
5 I've explained, I consider this to be a very serious offense,
6 and a serious offense requires a comparably serious sentence.
7 Without a comparably serious sentence, the sentence imposed
8 will not promote respect for the law, nor will it provide just
9 punishment. This activity harmed people. It put them in
10 danger. Every dose of heroin that was distributed by the
11 LAFAs in Duluth put people in danger. Conduct that endangers
12 the public is deserving not only of a serious sentence to
13 reflect the serious offense, serious nature of the offense,
14 but it also demands punishment, retribution given the danger
15 imposed and inflicted on the community.

16 The sentence also has to afford adequate deterrence
17 to criminal conduct, and this is another area that, you know,
18 involves prognostication. I have absolutely no doubt that
19 Mr. Asad is 100 percent sincere in what he said today. I
20 don't doubt that for a second. But talk is cheap. The hard
21 part comes when you have to live it rather than just talk
22 about it. And Mr. Asad doesn't have a history that inspires a
23 lot of confidence that he will get it. Maybe as he matures he
24 will, maybe as he gets more skills, more education; but we
25 have to recognize that at age 33, he's hardly aged out of

1 crime. He's essentially never supported himself lawfully.
2 And we have to therefore acknowledge that there is a
3 significant risk of recidivism here. There's also a
4 significant reason to hope that there -- Mr. Asad does get it
5 and will get on a correct path.

6 But the sentence does need to send the message to
7 Mr. Asad first and foremost that it's not going to be worth it
8 to him when temptation comes his way again. The temptation of
9 easy money and lavish lifestyle were the temptations here by
10 Mr. Asad's own admission, and he's going to face those
11 temptations down the road as well. That's specific
12 deterrence.

13 We also have to consider general deterrence. And
14 general deterrence concerns the message that we have to send
15 to everybody else. Sentencing isn't just about the defendant.
16 Sentencing is also a process by which the public learns and
17 can come to appreciate the efficacy of the rule of law, the
18 vitality of the rule of law. We look to law to tell us what
19 conduct is noteworthy and commendable and what conduct is
20 intolerable. And the message we have to send with this
21 sentence is -- has to reinforce the message that we're not
22 going to tolerate this kind of crime that puts our communities
23 and our families in danger. The public has to have confidence
24 that those standards have meaning, that they will be enforced
25 and that they can be relied upon. If they don't have that

1 confidence, if this sentence does not contribute to that
2 confidence, the alternative is chaos because when people don't
3 believe in the rule of law, they think they have to take the
4 law into their own hands. They have to protect themselves.
5 They have to be armed at all times. That's a recipe for the
6 return to the Wild Wild West. And the sentence in this case
7 has to do its part to remind people that the rule of law does
8 prevail, does have vitality and will be enforced.

9 I want to talk about unwarranted sentencing
10 disparities as well because in a -- particularly in a
11 multi-defendant case like this, it's important to see the
12 relationships between the sentences that have been imposed and
13 make sure that people are being treated equitably based on
14 their role, their culpability in the offense.

15 In that regard, I think the government's submission
16 appropriately classifies and explains the differences in the
17 sentences that have been imposed on the various codefendants
18 in this case, particularly the defendants who have been named
19 in the RICO count, as Mr. Asad has.

20 The -- as the government's submission indicates,
21 those who have had substantial direct involvement in the
22 violence of the LAFA gangs have received the most serious
23 sentences. Those who have cooperated with the government's
24 prosecution of the case have in general received the lowest
25 sentences, particularly in light of their own substantial

1 misconduct.

2 The people that most resemble Mr. Asad who have been
3 principally involved, principally involved in drug trafficking
4 aspects of the LAFA gang are his brother Rakim and Dijon
5 Foston. His brother was sentenced to 228 months in prison.
6 That included 60-month mandatory consecutive term for
7 possession of a firearm in furtherance of a drug trafficking
8 crime. But Rakim Asad had no criminal history points and
9 was -- but had direct responsibility for much larger volumes
10 of drug trafficking than did his brother Akeem. So it's not
11 inappropriate to kind of link them together as deserving of
12 the same punishment and the same neighborhood. Mr. Rakim
13 Asad's sentence, again, was a total of 228 months.

14 Mr. Foston, who did have participation in an armed
15 robbery and involvement in witness tampering, but his primary
16 connection, primary connection to the LAFAs and activity in
17 furtherance of the LAFAs was drug trafficking, received a
18 sentence of 203 months, and he did receive the career offender
19 provision as part of that sentencing calculus. So those are
20 the most comparably situated defendants in the Court's view,
21 and that is a factor the Court needs to take into account
22 because it is required to try to avoid unwarranted sentencing
23 disparities.

24 To that list we could also add several defendants,
25 including Mr. Asad's mother, who were not part of the RICO

1 conspiracy but were only charged in the drug conspiracy. They
2 all received -- well, Ms. McPherson received a sentence of
3 four years; Derrick McNeal received a sentence of six years;
4 Rashad Underwood received a sentence of five years. I think
5 those sentences have to be considered when assessing the
6 reasonableness of the defense position that the sentence
7 imposed in this case should be the five-year mandatory
8 minimum. Those are the sentences that are -- were received by
9 people who were not even members of the RICO conspiracy. And
10 I don't believe that those are viable comparators for
11 Mr. Asad's leadership role in that enterprise.

12 There are other defense mitigation arguments that
13 I'll acknowledge. The defense argues that prison was more
14 onerous during the COVID period. Doubtless that was true to
15 some degree. Life in general was more burdensome and onerous
16 for everyone during the COVID-19 situation. So I give that
17 some minor weight, but it's not a substantial factor in the
18 Court's evaluation of the appropriate sentence here.

19 There is a five-year mandatory minimum sentence here
20 as noted.

21 What else do we have?

22 Okay. I think those are the factors and how they tie
23 to the sentencing objectives as a whole that the Court needs
24 to take into account.

25 Mr. Stanton, are there other mitigating factors that

1 you neglected to address in your comments or want to expand
2 upon or that you think that I've neglected to address in my
3 comments here today?

4 MR. STANTON: Judge, just to the extent, if I didn't
5 specifically address it, that we are asking for an informal
6 adjustment of 45 months of prior state custody. And I don't
7 think the government had objected to that, but we didn't
8 specifically address it, I don't think, yet.

9 THE COURT: Yeah, I think that is correct, and that's
10 my understanding of the government's position as well.

11 MR. MOWER: That's correct, Your Honor.

12 THE COURT: All right. For the record, I think that
13 that is correct, and it's consistent with the approach that
14 we've used for several other defendants who have served
15 substantial time in state custody on crimes that relate to the
16 racketeering enterprise. I think it's appropriate under 5G1.3
17 and 2K2.23, I believe are the citations to advise the Bureau
18 of Prisons that in the court -- because those sentences were
19 completed before the end of this charged offense, they count
20 as criminal history, but they wouldn't be considered as time
21 served against this sentence under ordinary circumstances.
22 But the guidelines provide and the policy statements indicate
23 that it's appropriate for the Court to advise BOP that the
24 sentence already reflects a credit for time served under those
25 circumstances which ordinarily would not be -- would not

1 receive time credit served by the Bureau of Prisons
2 calculations. I think that's appropriate here given the
3 treatment of those two convictions that we've already
4 discussed, and I take it nobody disagrees with that.

5 MR. MOWER: With the end result, Your Honor, yes. I
6 would say that I don't believe in this particular instance
7 5K2.23 technically applies. And I think the Court has agreed
8 with that very convoluted assessment previously and thus has
9 given kind of informal credit under 3553(a) rather than some
10 formal function of the guidelines. But either way, I agree
11 with the Court's ultimate assessment to give informal credit
12 for the time served.

13 THE COURT: All right. Well, that's consistent with
14 what we've done, and we will do it here as well. I will --
15 there was, as I understand it, 45 months, nine months of
16 pretrial detention is included in that 45 months, right?

17 MR. STANTON: The revised calculation is 45, that's
18 correct.

19 THE COURT: All right. So the Court will recommend
20 to the Bureau of Prisons that Mr. Asad receive and will
21 reflect that the sentence imposed has already deducted
22 45 months to reflect that time served in state court custody
23 in Minnesota.

24 All right. Anything else, Mr. Stanton?

25 MR. STANTON: No. Thank you.

1 THE COURT: Mr. Mower?

2 MR. MOWER: No, Your Honor. Thank you.

3 THE COURT: All right. I'm prepared to impose the
4 sentence in this case.

5 On March 10 of 2023, Mr. Asad entered a plea of
6 guilty to a charge of racketeering conspiracy in violation of
7 18 U.S.C. 1962(d) and of conspiracy to distribute a controlled
8 substance in violation of Title 21 of the United States Code,
9 Section 846. I've considered all the arguments presented me
10 by the government, by defense counsel. I've considered
11 Mr. Asad's remarks here in court today. I've considered the
12 letters of support that have been submitted on his behalf.
13 I've considered the advisory federal sentencing guidelines and
14 the policy statements that inform their application. I've
15 taken into consideration all the factors set forth in
16 Section 3553(a), including -- and I've considered the totality
17 of the circumstances in this case in arriving at the sentence
18 that I think is sufficient but not greater than necessary to
19 serve the sentencing objectives set forth in Section 3553.

20 With respect to a sentence of imprisonment, the
21 guideline range here is 188 to 235 months. The government
22 seeks a sentence of 211 months, the -- essentially the
23 midpoint of that range. The defense asks for a sentence of
24 60 months. The probation office recommends a sentence of
25 188 months.

1 For the reasons I've already indicated, I don't
2 believe that a sentence of 60 months is remotely appropriate
3 here given the nature of the RICO enterprise and the
4 connection of that enterprise to the drug trafficking activity
5 that was Mr. Asad's principal connection to the enterprise.

6 At the same time I think there are some mitigating
7 factors here that the Court should take into account that I
8 have mentioned in my remarks here today. But I think the
9 appropriate sentence to impose here is a sentence at the low
10 end of the guideline range, 188 months, that will be, again,
11 reduced by the 45 months of time served in Minnesota as we
12 just discussed which will, when we subtract 45 from 188, we
13 get 143 months, and that will be the sentence imposed.

14 The reasons for that sentence are Mr. Asad's role,
15 leadership role in this enterprise, his long-running role as a
16 drug dealer, the fact that he is not by virtue of being a drug
17 dealer insulated from the fact that the LAFA enterprise was a
18 violent street gang that he voluntarily, knowingly, willingly
19 associated himself with and devoted his efforts to promoting
20 and maintaining. I think the guidelines appropriately weight
21 the aggravating factors here. I think the application of the
22 career offender guideline is appropriate here. And in some
23 ways, if we talk about career offender provision, not as the
24 technical term of art under the guidelines but just a
25 commonsense notion of somebody who has engaged in a long-term,

1 long-running participation in criminal activity, career
2 offender is not a bad description of Mr. Asad's history thus
3 far.

4 Be that as it may, I think under the guidelines it is
5 appropriate and necessary to impose the career offender
6 guideline and in nature of the -- in recognition of the nature
7 of the RICO conspiracy and the violent enterprise that it
8 fostered, I think treatment as a career offender here is quite
9 appropriate.

10 I'll note again the sentence does not in my judgment
11 create unwarranted sentencing disparities. The mitigating
12 factors that I have identified here I think are appropriately
13 taken into account in imposing a sentence at the low end of
14 the guideline range as opposed to the middle or high end
15 range. Those factors include Mr. Asad's age during the
16 commission of most of his criminal history, the fact that he
17 is not directly implicated in any violent crime, the fact that
18 he had secured and showed some signs of pursuing gainful
19 employment while he was in Minnesota before his arrest in this
20 case, the fact that incarceration during COVID was more
21 onerous and burdensome than at other times all are mitigating
22 factors that I think are appropriate to take into account in
23 placing the sentence at the low end of the guideline range.

24 No fine will be imposed. Mr. Asad is unlikely to
25 have significant financial resources to pay a fine when he has

1 served this sentence.

2 Restitution is not applicable. It has not been
3 sought here.

4 I am required by law to impose a special assessment
5 of \$100 on each count of conviction for a total special
6 assessment of \$200.

7 Given the offense of conviction here, I think a
8 period of supervised release is appropriate. I think a term
9 of supervised release of three years after release of
10 imprisonment is adequate. It's long enough to demonstrate
11 whether Mr. Asad is on the right path or not.

12 I don't believe, Mr. Stanton, you had any objections
13 to the recommended terms and conditions?

14 MR. STANTON: Judge, I didn't, but I did note the
15 government either in their initial submission or their
16 response indicated that Count 2 carried a mandatory four
17 years, I believe. And --

18 THE COURT: You are right. You are right. I think
19 that is a correction I need to make. Supervised release will
20 be a period of one to three years -- or three years on
21 Count 1, four years on Count 2, those terms to run
22 concurrently. That also leads me to just as a technical
23 matter restate the sentence in this case.

24 The sentence on each of Counts 1 and 2 will be
25 143 months to run concurrently to each other.

1 Anything else?

2 MR. STANTON: Judge, you mentioned earlier that drug
3 treatment was indicated. Can you specifically make an RDAP
4 recommendation, please.

5 THE COURT: I will make the RDAP recommendation,
6 understanding that I don't have the authority to dictate to
7 the Bureau of Prisons what programs it makes available for
8 participation in.

9 Also, tell me what you -- how you want this
10 structured because you also mentioned designation to a
11 facility as close to Chicago as possible. If they -- if that
12 is prioritized over RDAP, they may send Mr. Asad to someplace
13 that has an RDAP program without regard to its proximity to
14 Chicago. So I think you want to rank the recommendations and
15 priority of as close to Chicago as possible and RDAP
16 participation second, or alternatively --

17 MR. STANTON: Alternatively RDAP first, Chicago
18 second.

19 THE COURT: Okay.

20 MR. STANTON: Thank you.

21 THE COURT: Then I will do that.

22 I think, Mr. Mower, you had flagged one correction.
23 I'm not finding it. You had flagged one correction.

24 MR. STANTON: Judge, on page 30 of the government's
25 sentencing memo, I have two suggestions. It's document 787.

1 THE COURT: Oh, I'm looking at -- oh, right.
2 Discretionary condition No. 6, there are no named individuals
3 identified. Was the government seeking to have anyone
4 identified?

5 MR. MOWER: No, Your Honor.

6 THE COURT: All right. Then we will leave those
7 individuals unidentified. I think discretionary condition
8 No. 6 contemplates also that there's no association with
9 anyone known to be planning or committing crimes.

10 PROBATION OFFICER: Yes, Your Honor, that is the one.
11 And I apologize. I think we were going to recommend
12 codefendants. But considering some of the defendants in this
13 case are relatives, I don't remember if we were not going to
14 recommend it and just didn't uncheck that box in 6.

15 THE COURT: All right. Unless there's an objection,
16 we'll leave it as is.

17 MR. MOWER: Yes, Your Honor.

18 THE COURT: All right.

19 PROBATION OFFICER: And, Your Honor, one other thing
20 before I forget. Since the Court is recommending RDAP, I've
21 had the Bureau of Prisons before ask me to have someone's
22 sentence modified. We did not recommend drug aftercare, but
23 they do want something on the record in case they do consider
24 him for RDAP because I've been asked before to have sentences
25 modified.

1 So can we -- would the parties object to adding
2 discretionary No. 9 for substance abuse treatment?

3 THE COURT: Any objection?

4 MR. STANTON: No objection.

5 THE COURT: All right. That certainly makes sense,
6 and we'll add that condition to the recommended terms and
7 conditions.

8 Any other objections or issues with the terms and
9 conditions?

10 MR. MOWER: No, Your Honor.

11 MR. STANTON: No, Your Honor.

12 THE COURT: All right.

13 MR. STANTON: And we'll waive reading of the
14 conditions.

15 THE COURT: All right. The recommended terms and
16 conditions have been made available to the parties prior to
17 this hearing, and they've had an opportunity to review them
18 and lodge any objections they may have. Under those
19 circumstances, the defendant may waive the on-the-record
20 itemization of all of the terms and conditions, and the
21 defendant has so waived. The terms and conditions will be
22 appended to the judgment and commitment order in writing.

23 All right. Mr. Asad, you have the right to appeal
24 the sentence that has been imposed in this case as well as the
25 voluntariness of your guilty plea. Mr. Stanton and Ms. Dalton

1 will continue to advise you, but I advise you that if you wish
2 to appeal, you must initiate the appeal within 14 days of the
3 entry of the judgment in this case by filing a notice of
4 appeal in the district court.

5 The judgment will likely be entered this afternoon,
6 Mr. Stanton, so that would start the 14-day clock moving.

7 Ms. Kiriklakis, anything else from probation we've
8 neglected to cover?

9 PROBATION OFFICER: No, Your Honor.

10 THE COURT: Anything else from the government?

11 MR. MOWER: Just one administrative note, Your Honor.

12 At this time the government would move to dismiss
13 forfeiture Counts 1 and 3.

14 THE COURT: All right.

15 On the government's motion, I assume no objection,
16 forfeiture Counts 1 and 3 are dismissed?

17 MR. STANTON: No objection. Thank you.

18 THE COURT: All right.

19 Anything else from the defendant?

20 MR. STANTON: No. Thank you.

21 THE COURT: All right. Then we're adjourned.

22 Mr. Asad, I wish you well and good luck going
23 forward. Good luck to you and your getting on the right path
24 with those kids. That's the most important thing you've got
25 going.

1 THE DEFENDANT: Thank you, Your Honor.

2 THE COURT: All right. We're adjourned.

3 (Proceedings concluded at 11:49 a.m.)

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8 I certify that the foregoing is a correct transcript
from the record of proceedings in the above-entitled matter.

9

/s/Kelly M. Fitzgerald

October 24, 2024

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Kelly M. Fitzgerald
Official Court Reporter

Date

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