

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

UNITED STATES OF AMERICA
Plaintiff,

v.

Case No. 22-CR-113

JAMES PEASE,
Defendant.

STATEMENT OF REASON MEMORANDUM

Defendant James Pease pleaded guilty to conspiracy to distribute cocaine and methamphetamine. 21 U.S.C. §§ 841(a)(1), 841(b)(1)(C), 846. In determining his sentence, I was required to first calculate the correct advisory sentencing range under the sentencing guidelines, then weigh the factors listed in 18 U.S.C. § 3553(a) in choosing the ultimate sentence. E.g., United States v. Baker, 56 F.4th 1128, 1131 (7th Cir. 2023).

I. GUIDELINES

Defendant's pre-sentence report (PSR) set a base offense level of 30 under U.S.S.G. § 2D1.1(c)(5), then subtracted 2 levels for role in the offense, U.S.S.G. § 3B1.2(b), and 3 levels for acceptance of responsibility, U.S.S.G. § 3E1.1, for a final level of 25. The PSR further calculated a criminal history category of VI, producing an imprisonment range of 110-137 months.

Defendant argued that he should receive a 4-level role reduction under U.S.S.G. § 3B1.2(a). Section 3B1.2 provides a range of adjustments for a defendant who plays a part in committing the offense that makes him substantially less culpable than the average participant in the criminal activity: 2 levels for "minor" participants, 4 levels for "minimal" participants, and

3 levels for cases falling in between. U.S.S.G. § 3B1.2 cmt. n.3(A). The determination whether to apply the 2 or 4 level reduction, or an intermediate adjustment, is based on the totality of the circumstances and involves a determination that is heavily dependent upon the facts of the case. The court should consider the following non-exhaustive list of factors: the degree to which the defendant understood the scope and structure of the criminal activity; the degree to which the defendant participated in planning or organizing the criminal activity; the degree to which the defendant exercised decision-making authority or influenced the exercise of decision-making authority; the nature and extent of the defendant's participation in the commission of the criminal activity, including the acts he performed and the responsibility and discretion he had in performing those acts; and the degree to which the defendant stood to benefit from the criminal activity. U.S.S.G. § 3B1.2 cmt. n.3(C).

The minimal participant adjustment is intended to cover defendants who are plainly among the least culpable of those involved in the conduct of a group. Under this provision, the defendant's lack of knowledge or understanding of the scope and structure of the enterprise and of the activities of others is indicative of a role as minimal participant. U.S.S.G. § 3B1.2 cmt. n.4. The minor participant adjustment applies to a defendant who is less culpable than most other participants in the criminal activity, but whose role could not be described as minimal. U.S.S.G. § 3B1.2 cmt. n.5.

Defendant argued that he was plainly the least culpable of the four men charged in this conspiracy. He worked under the direction of Juan Carlos Ruiz-Garcia, the manager of the drug trafficking organization; had no financial interest in the conspiracy; had no decision-making authority, independence, or discretion; was not involved in obtaining drugs from the sources; did not handled the larger quantities of drugs; and was only out of custody and staying with

Ruiz-Garcia for about eight months before their arrests. Defendant further noted that his involvement was driven by his addiction. He was an addict who had no place to live when he got out of jail. Ruiz-Garcia allowed defendant to stay in an old RV trailer parked in Ruiz-Garcia's backyard and gave defendant methamphetamine and a phone in exchange for work around the property; defendant also sold user-quantity amounts for Ruiz-Garcia. Defendant's girlfriend lived there as well and did Ruiz-Garcia's laundry and cleaning.

Defendant argued that he was substantially less culpable than the "average" participants—Jaime Hurtado and Armando Valdovinos—the other two charged defendants. Hurtado received a minor role adjustment at his sentencing hearing, and defendant asserted that Hurtado was more involved than he was. For instance, Hurtado was arrested with Ruiz-Garcia in possession of 46 kilograms of cocaine that they were transporting from California to Wisconsin. Hurtado admitted that he met with suppliers and collected the duffle bags containing the 46 kilograms. Hurtado was also involved in multiple conversations with informants about the logistics of other potential loads of drugs coming from California, demonstrating that the 46-kilogram load was not a one-off. Hurtado was further involved in larger quantity drug sales and had his own supply, which he was able to offer when Ruiz-Garcia was out of drugs. For his part, Valdovinos distributed methamphetamine (typically 4 ounces at a time), keeping half the profit (as Hurtado also did), with Ruiz-Garcia getting the other half. Ruiz-Garcia also made a statement referencing his "partnership" with Valdovinos, further suggesting Valdovinos's greater culpability.

The government did not object to a minor role adjustment but argued that defendant was not a minimal participant. The government noted that defendant was fronted both methamphetamine and cocaine by Ruiz-Garcia, and that defendant then distributed the drugs

to other distributors, not end-users. For example, a text message exchange between a source of information (SOI-2) and defendant occurring in mid-June 2021 revealed that SOI-2 obtained drug customer “orders” from others before obtaining larger quantities of drugs from defendant to distribute on to the customers. The government argued the texts revealed that SOI-2 (and defendant’s other “customers”) were less culpable participants in the criminal activity than defendant himself. In the end, while defendant may have been an addict himself, he was also a dealer in his own right and was fronted drugs for further distribution, which he then distributed to additional, less culpable dealers/participants in this criminal conduct. Additionally, defendant had a close, ongoing relationship with Ruiz-Garcia. See United States v. Mendoza, 457 F.3d 726, 730 (7th Cir. 2006) (“One of the factors that sentencing judges should examine while assessing a defendant’s role in a criminal enterprise is the defendant’s relationship with the enterprise’s principal members.”).

Given the competing arguments, I found this an appropriate case for the intermediate adjustment. Some of the factors pointed to a 4-level adjustment: defendant did not deal with the suppliers; he did not participate in planning; he exercised no decision-making authority; his acts, while important, involved limited discretion; and his financial benefit seemed inferior to that of the charged co-defendants. On the other hand, the government identified uncharged participants who appeared less culpable. See U.S.S.G. § 3B1.1 cmt. n.1 (“A ‘participant’ is a person who is criminally responsible for the commission of the offense, but need not have been convicted.”). Defendant also had a close relationship to, and appeared to be trusted by, Ruiz-Garcia, and the text messages appeared to reflect some understanding of the enterprise’s activities. Accordingly, I granted a 3-level reduction. I otherwise adopted the PSR’s calculations, which produced an imprisonment range of 100 to 125 months.

II. SECTION 3553(a)

Section 3553(a) directs the district court to consider:

- (1) the nature and circumstances of the offense and the history and characteristics of the defendant;
- (2) the need for the sentence imposed—
 - (A) to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense;
 - (B) to afford adequate deterrence to criminal conduct;
 - (C) to protect the public from further crimes of the defendant; and
 - (D) to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner;
- (3) the kinds of sentences available;
- (4) the [advisory sentencing guideline range;]
- (5) any pertinent policy statement . . . issued by the Sentencing Commission[;]
- (6) the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct; and
- (7) the need to provide restitution to any victims of the offense.

18 U.S.C. § 3553(a). After considering these factors, the court must “impose a sentence sufficient, but not greater than necessary, to comply with the purposes” of sentencing: just punishment, deterrence, protection of the public, and provision of needed correctional treatment. Id. While the court must always consult the guidelines in making this determination, the ultimate length of the sentence is committed to the court’s discretion. The court is free to deviate from the guidelines, so long as it offers an adequate statement of its reasons. United States v. Brooks, 100 F.4th 825, 837-38 (7th Cir. 2024).

This prosecution arose out of the government's investigation into the Ruiz-Garcia drug trafficking organization, which began in February 2021 after law enforcement responded to a drug overdose. During the investigation, law enforcement identified a residence located on 88th Avenue in Pleasant Prairie, Wisconsin as a potential source location for heroin and methamphetamine, and identified this defendant as a methamphetamine dealer who distributed for Ruiz-Garcia. Defendant was in state custody from approximately September 2020 to early March 2021. On his release, he provided the 88th Avenue address as his residence. Between February 2021 and November 2021, case agents conducted regular trash pulls from that location, consistently finding drug packaging material, including bags containing trace amounts of methamphetamine, cocaine and fentanyl, consistent with multi-pound quantities of narcotics. Case agents also discovered apparent drug ledgers and personal mail addressed to Ruiz-Garcia, defendant, and others contained alongside the packaging material.

In mid-June 2021, case agents interviewed a source of information (SOI-2), who admitted to distributing methamphetamine in southeast Wisconsin. Agents obtained a forensic extraction of SOI-2's phone, which had contacts associated with Ruiz-Garcia's operation, including defendant and Hurtado. Case agents also observed a text message exchange occurring in mid-June 2021 between SOI-2 and defendant's cell number. During the exchange, defendant stated, "I only have 7 right now," followed by, "This afternoon will have lots." SOI-2 replied, "Ok I'll take some orders."

On October 12, 2021, case agents used a confidential source (CS-1) to make a controlled purchase of 26.7 grams of pure methamphetamine from defendant at Ruiz-Garcia's residence in Pleasant Prairie. Prior to the transaction, CS-1 and D.C. spoke telephonically, and D.C. agreed to act as a middleman between CS-1 and Ruiz-Garcia. While D.C. was meeting

with defendant, CS-1 received a call from Hurtado, who said that Ruiz-Garcia was “out” and that CS-1 should buy from him (Hurtado). Hurtado suggested that he had another source. After the buy between D.C. and defendant, defendant walked back toward CS-1’s vehicle and briefly met with CS-1.

Later in the investigation, CS-1 recorded “dry” meetings with Hurtado and Valdovinos, wherein Hurtado and Valdovinos discussed other members of the conspiracy, including Ruiz-Garcia and defendant. Additionally, during the week of November 15, 2021, CS-1 received a call from Hurtado stating that they had the “good stuff” on hand. During a recorded meeting, Hurtado admitted to driving Ruiz-Garcia’s semi-trucks with him, suggested that he was accompanying Ruiz-Garcia on the next drug transport trip, and indicated that they had traveled to California.

Between December 1, 2021, and December 3, 2021, case agents monitored the location information for Ruiz-Garcia’s phone because CS-1 had learned that Ruiz-Garcia was headed to California to obtain a supply of drugs. On December 7, 2021, case agents coordinated with the Iowa State Patrol to conduct a traffic stop of Ruiz-Garcia’s semi-tractor and flat-bed trailer, which was hauling 12 hot tubs stacked in rows of three. Ruiz-Garcia was identified as the driver, and Hurtado as the passenger. After the initial contact, a police K-9 was deployed and alerted to the rear passenger corner of the trailer. Case agents subsequently located four black duffle bags on the floor of a hot tub, and the duffle bags contained a total of 48 individually wrapped kilogram-size bricks. The bags contained a total of approximately 46 kg of cocaine. A cooperating defendant (CD) stated that a source arranged for him to pick up the four duffle bags containing 48 bricks of cocaine from others in Chino, California. The CD directed Hurtado to meet with the suppliers and collect the four duffle bags. Once they arrived in Las Vegas,

Hurtado concealed the four duffel bags inside one of the hot tubs. With respect to the drug trafficking operation in Pleasant Prairie, the CD said that he sourced and purchased cocaine and methamphetamine from his sources of supply, and the drugs were then provided to defendant, Valdovinos, and Hurtado for distribution. The CD also financed the purchase of methamphetamine and stated that Valdovinos and defendant generally stored the methamphetamine. Defendant would sell methamphetamine and occasionally cocaine fronted by the CD.

The parties agreed defendant was responsible for at least 50 grams but less than 150 grams of pure methamphetamine. The parties further agreed that he worked under the direction of Ruiz-Garcia, and that he was fronted methamphetamine, which he distributed to others for further distribution. He had no relationship with Ruiz-Garcia's source of supply, and he had no decision-making authority.

In his statement to the PSR writer, defendant accepted full responsibility for his role in the offense. He indicated that since his release from a revocation sentence based on this conduct he stayed clean, participated in AODA treatment, worked, lived in a stable home, and enjoyed a stable relationship with his girlfriend. He stated that his addiction drove his participation in this offense, and he understood that he needed to work each and every day to remain clean and productive.

Defendant was 55 years old, with a lengthy prior record: disorderly conduct in 2006, theft in 2007, 2008 and 2009, assault in 2009, another theft in 2009, a protection order violation in 2010, taking a vehicle without permission in 2010, two more protection/no contact order violations in 2010, vehicular assault in 2011, burglary in 2018, theft in 2019, retail theft in 2020, burglary in 2021, and drunk driving in 2021. Defendant was sentenced to 2 years in prison

imposed and stayed for probation in the 2021 burglary, which was revoked in March 2022 after his December 2021 arrest in this case. He served the revocation sentence until June 2023, after which he was released on bond in this case. He did quite well on bond for over a year prior to sentencing, which was notable given his extensive record and prior history on supervision.

As detailed in the PSR, defendant had a difficult childhood, with an abusive father. He had mental health and substance abuse treatment needs. The PSR documented insomnia, bipolar disorder, and PTSD, for which he received medications while in custody. He reported taking no medications presently, but he was waiting for a mental health referral through his state probation officer. His substance abuse issues involved alcohol, marijuana, cocaine, and methamphetamine; he reported using meth regularly before his arrest in this case. He further stated that he got involved in this offense to support his addiction. He was enrolled in AODA treatment through his state probation officer and wanted to continue. He submitted all negative tests on pre-trial release in this case and with the state. Defendant also had some physical health issues, including arthritis in his hands and knees, burns from a 2007 house fire, and serious injuries from a 2011 motor vehicle accident, including a C-spine fracture.

Defendant worked at an auto repair shop since May 2024 and seemed to be doing quite well there, as reflected in statements from his employers. From July 2023 to May 2024 he worked in home remodeling. This steady employment was also significant, as his past work record was somewhat spotty. He also helped his disabled brother with shopping, medical appointments, and household chores. Letters submitted by the defense discussed how he helped others, as well.

Defendant had been in a relationship since 2017, and his girlfriend noted that he was

doing well and finally appeared to want to live a normal life. He took his sobriety seriously and cut ties with his old associates. She stated he did not have a lot of hope when he was released from custody for prior offenses because he did not have a stable home or a lot of family support. He currently received positive support from her, his brother, and his brother's girlfriend, and she could tell that he was happy. She believed that he became involved in this offense to support his addiction. She stated he was a happier person when sober, and she was confident that he would not become involved in similar conduct as long as he remained busy and maintained his sobriety.

As indicated, the guidelines called for a prison term of 100-125 months. While this was no doubt a serious offense, for several reasons, that range was greater than necessary.

First, as the Sentencing Commission detailed in a recent report, defendants sentenced for trafficking methamphetamine receive longer sentences than those sentenced for fentanyl, heroin or cocaine, the divergence largely driven by statutory and guideline provisions providing different sentences based on the purity of the methamphetamine involved in the offense. United States Sentencing Commission, Methamphetamine Trafficking Offenses in the Federal Criminal Justice System 2, 45-46, 52 (June 2024). These penalties effectively produce a 10-to-1 ratio of actual methamphetamine to methamphetamine mixture, meaning it takes ten times less pure methamphetamine to trigger the same penalty than a mixture containing a detectable amount of methamphetamine. Id. at 2. Courts have criticized this penalty structure as overly punitive and contributing to unwarranted sentencing disparity. Id. at 3.

The emphasis on drug purity can create inter-district disparity because it is dependent on drug testing practices, which are not performed consistently across the country. Id. at 3, 31, 52. Worse, the distinction between actual and mixed methamphetamine is based on now out-

dated purity figures. When Congress established the different statutory penalties for actual methamphetamine and methamphetamine mixture in 1988, the average purity of the methamphetamine being trafficked in the United States was seldom greater than 50 percent. Id. at 3. At that time, defendants sentenced for trafficking highly pure methamphetamine were considered to have a higher function in the drug distribution chain and therefore greater culpability in the offense. Id. Since then, however, the purity of the methamphetamine trafficked in the United States has increased substantially, such that it is now rare to find methamphetamine that tests lower than 90 percent pure. Id. Nor, the Commission found, is there a statistically significant difference in the purity of methamphetamine based on the function/role of the individual drug trafficker. Id. at 39. This has caused courts to question whether the distinction between pure methamphetamine and methamphetamine mixture serves as a reliable proxy for the sentenced individual's culpability. Id. at 3, 52; see, e.g., United States v. Patrick, No. 4:23-cr-00206-BLW, 2024 U.S. Dist. LEXIS 67559, at *7 (D. Idaho Apr. 11, 2024); United States v. Havel, No. 4:21-CR-3075, 2023 U.S. Dist. LEXIS 22683, at *9 (D. Neb. Feb. 10, 2023); United States v. Rodriguez, 382 F. Supp. 3d 892, 897 (D. Alaska 2019); United States v. Bean, 371 F. Supp. 3d 46, 51 (D.N.H. 2019).¹

This flaw was evident in the present case. Defendant occupied a low level role in the operation and did not deal directly with the suppliers, yet he faced the same range as a high-level supplier. The base offense level for a methamphetamine mixture would have been 24 and

¹The Seventh Circuit has held that district courts may deviate from the methamphetamine guideline if persuaded that the Commission is mistaken, although they are never required to do so. United States v. Bostock, 910 F.3d 348, 350 (7th Cir. 2018) (citing Kimbrough v. United States, 552 U.S. 85 (2007); United States v. Corner, 598 F.3d 411 (7th Cir. 2010)).

the range 57-71 months.

Second, in evaluating the seriousness of the offense under § 3553(a), I noted that defendant occupied an inferior role; he engaged in no aggravated conduct, such as violence, threats, or weapon possession; and he got involved due to his own addiction. The record contained no indication of significant profit.

Third, after serving about 18 months on revocation based on this same conduct, defendant did quite over the past year, adjusting positively to supervision, working, and maintaining sobriety. This was significant, as it appeared much of his criminality was influenced by drug addiction and mental health issues. If he continued to address those issues, as he appeared to be doing, he would be much less likely to re-offend.

Under all the circumstances, I found a sentence of time served, followed by 3 years of supervised release, sufficient but not greater than necessary to satisfy the purposes of sentencing. Defendant experienced an immediate consequence after his arrest in this matter, serving 18 months on revocation, which was based on this conduct, such that it would have been reasonable to impose concurrent time here. See United States v. Huusko, 275 F.3d 600, 603 (7th Cir. 2001). He also spent about 6 months on location monitoring as a condition of release in this case. Given the mitigating factors discussed, I did not see a need for further confinement to provide just punishment. Nor was removing him from the community again necessary to protect the public or deter, given his positive adjustment; indeed, doing so would have been counter-productive given his stable situation.

III. CONCLUSION

For the foregoing reasons, and those stated on the record, I committed defendant to the custody of the Bureau of Prisons for time served. I further required him to serve 3 years of

supervised release, with drug testing and mental health treatment conditions. Other terms and conditions of the sentence appear in the judgment.

Dated at Milwaukee, Wisconsin, this 10th day of July, 2024.

/s/ Lynn Adelman

LYNN ADELMAN

District Judge