

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JAMES G. ALLEN, JR.,

Defendant.

Criminal Action

No. 19-139

Transcript of SENTENCING HEARING proceedings recorded on
Thursday, January 16, 2020, in the United States District
Court, 700 Grant Street, Pittsburgh, Pennsylvania, before
The Hon. Arthur J. Schwab, United States District Judge

APPEARANCES:

For the Government:

Carl F. Brooker, Esq.
Department of Justice, Tax Division
Room 7811
601 D Street, NW
Washington, DC 20001

For the Defendant:

R. Anthony DeLuca, Esq.
225 Ross Street, 4th Floor
Pittsburgh, PA 15219

Court Reporter:

Deborah Rowe, RMR, CRR
700 Grant Street, Ste. 5300
Pittsburgh, PA 15219
(412) 471-2510

Proceedings recorded by mechanical stenography; transcript
produced by computer-aided transcription

P R O C E E D I N G S

- - -

(10:05 a.m.; in open court:)

THE COURT: Good morning. This is the time and place that's been set for sentencing in Criminal No. 19-00139. I ask counsel for the United States to enter your appearance, please.

MR. BROOKER: Good morning, Your Honor. Carl Brooker on behalf of the Government, and I'm joined at counsel table today by Special Agent Wellie Yaple of IRS Criminal Investigations.

THE COURT: Welcome, both of you. And on behalf of the Defendant, please?

MR. DELUCA: May it please the Court, Your Honor, Anthony DeLuca on behalf of the Defendant, Dr. James Allen.

THE COURT: Sir, would you stand and be sworn, please?

(The Defendant was duly sworn.)

THE COURT: Sir, do you understand that, having been sworn, your answers to my questions are subject to the penalties of perjury or making a false declaration if you do not answer truthfully?

THE DEFENDANT: I do.

THE COURT: The Court notes for the record that on June 4, 2019, pursuant to a plea agreement, the Defendant

1 entered a plea of guilty to Count 1 of a one-count
2 information charging the Defendant with filing a false income
3 tax return in violation of Title 26 United States Code
4 Section 7206(1).

5 Following a guilty plea, the Court directed the
6 Probation Office to prepare a Presentence Investigation
7 Report and scheduled a sentencing hearing for November 12,
8 2019; and then, based upon a motion from Defendant, continued
9 the hearing until today, January 16, 2020.

10 The Court has received and reviewed the Presentence
11 Investigation Report and addendum thereto prepared by the
12 United States Probation Office. Neither the Government nor
13 the Defendant filed a position with respect to the
14 Presentence Investigation Report.

15 The Court has reviewed Defendant's sentencing
16 memoranda filed at Document No. 28 and the Government's
17 sentencing memorandum filed at Document No. 29.

18 Contained within Defendant's sentencing memorandum
19 is a request for either a downward departure or downward
20 variance of the guideline sentence, which is 24 to 30 months,
21 to a sentence of probation. Further, the Court has reviewed
22 Defendant's allocution at Document No. 31 and numerous
23 letters received from Defendant's family, friends and
24 professional colleagues, which are filed at Document No. 27.

25 Finally, the Court has reviewed the sentencing

1 recommendation prepared by the Probation Office.

2 Sir, on June 4, 2019, you entered a plea of guilty
3 in this courtroom to Count 1 of a one-count information at
4 Criminal No. 19-00139 charging you with filing a false tax
5 return in violation of Title 26 United States Code Section
6 7206(1). Correct, sir?

7 THE DEFENDANT: Yes.

8 THE COURT: Following your guilty plea, I directed
9 the Probation Office to prepare a Presentence Investigation
10 Report, which you and your attorney have received; correct,
11 sir?

12 THE DEFENDANT: Yes.

13 THE COURT: Correct, Counsel?

14 MR. DELUCA: That is correct, Your Honor.

15 THE COURT: I've reviewed the Presentence
16 Investigation Report and addendum thereto and the sentencing
17 recommendation of the Probation Office. Pursuant to the
18 standing Order of the Board of Judges of this District, the
19 Court finds it's not appropriate to disclose the
20 recommendation of the Probation Office to the parties, nor to
21 counsel. However, sir, in determining your sentence, the
22 Court will not consider any matter that's not previously been
23 disclosed to you or your attorney.

24 Counsel, have you reviewed the Presentence
25 Investigation Report, addendum thereto, and discussed them

1 with your client?

2 MR. DELUCA: I have, Your Honor.

3 THE COURT: Are there any errors in the Presentence
4 Investigation Report or addendum that you've not previously
5 called to the Court's attention?

6 MR. DELUCA: No, Your Honor.

7 THE COURT: Sir, have you reviewed the Presentence
8 Investigation Report, addendum thereto, and other matters and
9 discussed them with your attorney?

10 THE DEFENDANT: Yes, I have.

11 THE COURT: Counsel, is there any legal cause why
12 sentence should not be pronounced?

13 MR. DELUCA: No, Your Honor.

14 THE COURT: Anything you would like to say or the
15 Defendant would like to say? Now would be the appropriate
16 time, please.

17 MR. DELUCA: I would, Your Honor. I have -- we'll
18 rely primarily upon our sentencing memorandum. I do just
19 want to emphasize a few things --

20 THE COURT: Please.

21 MR. DELUCA: -- and address a few points from the
22 Government's sentencing memorandum as well.

23 I believe Dr. Allen would like to read his
24 allocution statement, and we do have several family members
25 here today. His sister in particular would like to say a few

1 words as well.

2 THE COURT: Certainly. And I thank all the family
3 members and friends that are here today on the Defendant's
4 behalf.

5 MR. DELUCA: You know, I wanted to emphasize,
6 Judge, that Mr. Allen is a very unconventional thinker. You
7 know, his life and his path to medicine is certainly not the
8 traditional one. And the circumstances of his life, which
9 you've reviewed in the presentence report, certainly are not
10 the typical route that we see in life.

11 And that made him susceptible, and he fully admits
12 he's wrong in this, but it made him susceptible to
13 Mr. Hendrickson's appeal and his book Cracking the Code, and
14 he became a true believer in that.

15 So while he certainly did commit these crimes, and
16 he's fully responsible for them, he was, based upon his
17 method of thinking, lulled into that way of viewing the tax
18 code, unfortunately.

19 Additionally, Judge, you know, we have a situation
20 where, again, it's his responsibility, but he began without
21 any misrepresentation or anything, telling the IRS this is my
22 position. And as a result, his balances were zeroed out.
23 After some time they did claim they were frivolous.

24 I don't deny that he continued to send letters
25 stating this position from this Cracking the Code book, and

1 ultimately they did send something to him saying he did not
2 owe tax. And unfortunately, that reinforced his belief that
3 he was right and ultimately led to this offense becoming much
4 larger than it would have been, you know, in the initial
5 stages of the issue.

6 To that end, the Government did raise some issues
7 concerning other parts of his life that they believe indicate
8 criminality or intent to commit crimes, one of which is an
9 offshore account.

10 I would point out to you that that account was
11 opened in 2008, well before he got involved in any of these
12 type of issues and before he claimed that he didn't owe tax,
13 et cetera, before he got involved with Mr. Hendrickson, any
14 of those issues.

15 So that was opened in 2008. He did it, you know,
16 to work in various currencies. And to tell you the truth, he
17 ended up losing \$140,000 on that account. So there was no
18 intent of criminal behavior. There's no intent to avoid
19 taxes as a result of that account.

20 I'd also address the church, the Kenpo United
21 Church. You know, Dr. Allen has some fairly strong religious
22 beliefs as well. There was a car placed into it, but there
23 was never any tax advantage from it. I don't believe the
24 Government could state there was. All he did was place a car
25 in it. He didn't run money through it. He didn't do any of

1 those types of things. So there really was no criminality in
2 that.

3 And then there were a lot of statements about
4 things that Mr. Hendrickson said about Dr. Allen on the
5 website, on his website, that being Hendrickson. And what I
6 would like to say about that is that, you know, these
7 comments can't be attributed to Dr. Allen. It's consistent
8 with what Hendrickson puts out there.

9 You know, my client has clearly admitted that he's
10 wrong in this and that he would never tell anybody to follow
11 Cracking the Code or anything along those lines. In fact,
12 it's been a long time since we've had any contact with
13 Hendrickson in any way. He hasn't made any posts saying the
14 Government is evil or anything along those lines following
15 his indictment in this particular case or his information in
16 this particular case.

17 So I wanted to address those items and just point
18 out that none of those -- and I think there was a comment
19 that he had crypto currency. PNC's dealing in crypto
20 currency now, it's my understanding. You can go to Giant
21 Eagle and buy it. So I don't see how that's part of some
22 kind of scheme to avoid taxes.

23 And the same with gold. People have the right to
24 buy gold, and they do, and there's no indication -- he didn't
25 hide the gold. He had the gold, and there's nothing wrong

1 with that as well.

2 As to his other activities, there was a comment
3 about him, you know, being involved in a Grand Jury
4 movement -- there's nothing illegal about anything that he
5 did.

6 The fact is what he did that was illegal involved
7 these tax returns, and he did it from a very wrongly-held
8 belief that the Government was acting improperly. And
9 everything else that was raised was not criminal in any way
10 and should not be in our opinion considered as far as this
11 sentence.

12 You know, as to the general deterrent situation in
13 this particular case, Dr. Allen, you know, he has proclaimed
14 in his -- he's going to read it to you again, that he was
15 wrong in this and that he would never recommend anybody to
16 follow Mr. Hendrickson's path.

17 You know, as far as him actually reoffending, he
18 has one DUI in his past, which was an ARD first offense
19 offender type program. He is not a person that regularly
20 engages in criminal activity other than these particular
21 instances, and you won't see him here in court again.

22 You know, he has suffered quite a bit as a result
23 of this. You know, he is a modest man. He lived a modest
24 life. He no longer works as an anesthesiologist, which is
25 what he loves to do.

1 Of course, as all these cases do, it's had a
2 tremendous negative impact upon his family. And, you know,
3 he's going to face -- we've already gotten notice he's going
4 to face significant civil penalties from the IRS as well.
5 And he's going to have to deal with that.

6 As to a fine, we would also ask that, you know,
7 given those circumstances I just referenced and his
8 ultimately negative net worth, that you not impose a fine.

9 And we also ask that, you know, that you impose a
10 sentence of probation in this particular case, given the
11 totality of the circumstances in the matter.

12 So thank you. And I'd ask Dr. Allen to --

13 THE COURT: Did you have anybody that you wanted to
14 speak also?

15 MR. DELUCA: Oh, yes. Do you want to come right up
16 to the microphone? Would you like her at the bench, Your
17 Honor?

18 THE COURT: She should come to the microphone. She
19 does not need to be sworn.

20 (The witness, NANCY LORENZ, testified as follows:)

21 BY MR. DELUCA:

22 Q. Ma'am, please state your full name, and spell your
23 last name.

24 A. Nancy Lorenz, L-o-r-e-n-z. Hi, Your Honor. How are
25 you?

1 Q. And what is your relationship to the Defendant?

2 A. I am Jim's youngest sister.

3 Q. Is there something you would like to say on his behalf
4 here?

5 A. Yes, I would.

6 Q. Please do so.

7 A. Thank you for your time first of all, gentlemen. So,
8 Your Honor, you know, as I drove here last night, I was
9 thinking to myself, you know, just the situation, you know,
10 the situation that Jim found himself in.

11 And, you know, I vacillate between bewilderment and
12 anger honestly because Jim literally responded, E-mails sent
13 back and forth and back and forth, and he didn't deliberately
14 try to hide anything.

15 When we were kids, you know, we grew up probably
16 like most of you. You know, there's no handbook. So you
17 know, they do the best they can. My parents were both
18 alcoholics. And I learned my principles from my brother over
19 there.

20 And one day I stole a penny candy, and he was up
21 there getting the milk, and he turned around, and I popped it
22 into my mouth. The cashier saw me, and he went --
23 (indicating), and I went -- and I knew what that meant. He
24 was going to go home and tell. So I ran over, no, no, don't
25 tell. He said, Nancy, don't ever take anything that doesn't

1 belong to you. Do you understand? You have to work for
2 that. I learned my principles from that man right there, and
3 I mean that with all of my heart.

4 But moreover than that, how many people has he
5 saved in the last -- I don't know -- how many years? And you
6 know, what you're all also not considering is that I would
7 have never been a nurse. He's taught so many people. And
8 literally, I went into intensive care at forty. I would have
9 never become a nurse. He said you can turn forty with or
10 without a degree, Nancy. What's it going to be? I said it's
11 going to be with a degree.

12 And I say all this because this is a man who would
13 never tell you, wouldn't tell me -- I was walking down the
14 street in Philadelphia with him. I said, Jim, what did you
15 go hand that homeless man? Oh, nothing.

16 We went to lunch. I said, Jim, I want to know.
17 What did you have in your pocket? He had Wawa cards, and he
18 was giving them just randomly, but he didn't want to tell me
19 because he's humble.

20 He literally worked for every single thing that he
21 has, and he put himself through school because our parents
22 were very poor. We lived in the projects. And he has
23 inspired so many and maybe saved some of your own relatives.

24 And I say that because did you ever hear it's a
25 small world; right? I mean literally, I mean that. But he

1 adds so much not only to my life -- of course, he's my
2 brother -- but to society.

3 And you take away a man's medical license. First
4 of all, I mean it doesn't make sense to me. It doesn't make
5 any sense. He made a mistake. He did not deliberately,
6 underhandedly, connivingly, like I've seen so many. He made
7 a mistake above board with E-mails.

8 I mean if the IRS isn't responsible for what's
9 going back and forth, he's a physician. He's 20 percent, 20
10 percent in the entire United States, and he's the specialist.
11 My mother goes in there, and guess what. He's the
12 anesthesiologist.

13 But here's the thing. Why is he more accountable
14 than -- they're sending him refund checks. And did he do
15 anything underhanded? No. It's all above board. He's on
16 the radio telling what he believed to be true, not some
17 underhanded back store -- this is a physician that has -- his
18 guide, it's his principles.

19 And do no harm, have we forgotten that? I don't
20 understand. I don't, Your Honor. And I'm sorry. But I know
21 that man there. And if it wasn't for him, I don't know where
22 I'd be, and I mean that.

23 My sister was seven years older than him, nine
24 years older than myself. She died at 42 of a drug overdose.
25 Well, cerebral -- right cerebral hemorrhage, Your Honor, but

1 high blood pressure due to drug use. And my brother, we've
2 battled with drugs and alcohol -- him just with alcohol,
3 but -- and I watched them, and he led from the front, and
4 he -- he adds to society.

5 And when I watch the news, and I see all these
6 people, and they're killing and doing this, and they're
7 destructive, we're talking about money here. We're not
8 talking about lives. He saved lives. Why are we going to
9 take that away from us, you, me?

10 And I -- I'm telling you, I know I'm passionate.
11 At least that's what they call me in ICU, but I believe -- I
12 believe that do no harm has been his entire life. And he has
13 spent his entire life trying to give back. And I mean that.
14 Do no harm.

15 He didn't do this deliberately, Your Honor. That's
16 all I have to say. Thank you for your time. I appreciate
17 it.

18 THE COURT: Thank you.

19 MR. DELUCA: Your Honor, I do want to address one
20 other issue regarding restitution before I do finish.

21 The restitution we agreed with was \$1,084,658.52.
22 The payment he has made already is \$975,842.29, which leaves
23 a balance of \$108,816.23.

24 However -- and I believe the Government agrees with
25 this -- prior to the plea in this particular case, two

1 payments were made on his wife's account, one in the amount
2 of \$16,453.26. Now, that wasn't paid to the Clerk of Courts.
3 That was paid to the IRS.

4 And there's been -- similarly another payment was
5 made of \$11,345.90. Those two checks total \$27,799.16,
6 which, when subtracted from the remaining balance, comes to a
7 balance of \$81,017.13.

8 THE COURT: What's the Government's position as to
9 the amount of the restitution?

10 MR. BROOKER: Your Honor, the Government agrees
11 with the defense on the amount of payments made by the
12 Defendant in this case. However, due to the way that the IRS
13 functions, there needs to be a judgment-based assessment
14 against the Defendant before the IRS can credit these
15 payments towards his account, because from the IRS's
16 perspective he still has a zero dollar balance.

17 THE COURT: So what's the answer to my question?

18 MR. BROOKER: The answer to your question, Your
19 Honor, is the Government's position on restitution is it
20 needs to be that full \$1,084,658.52 that the Government has
21 stated at page 15 of the Government's sentencing memorandum.

22 THE COURT: Anything else you want to say?

23 MR. DELUCA: Yes. And he is prepared to pay the
24 \$81,017.13, you know, either today or in the next few weeks.

25 THE COURT: But the restitution amount for the

1 judgment order will be \$1,084,658.52; correct?

2 MR. BROOKER: Yes, Your Honor, correct.

3 MR. DELUCA: That's agreed, Your Honor.

4 THE COURT: Does anybody else want to speak?

5 MR. DELUCA: Dr. Allen would just like to allocute,
6 Your Honor.

7 THE COURT: Sure. If you're going to read a
8 statement, would you kindly read it slowly, please?

9 THE DEFENDANT: Yes, sir. As I reflect back upon
10 my life, I realize that, although I may be shocked to find
11 myself in this predicament, I also realize that it might have
12 been inevitable that I end up here. I could say that I am
13 the product of a dysfunctional family, but honestly I don't
14 believe that there are many among us who can say different.

15 However, despite any adverse circumstances in which
16 I may have found myself growing up, I had ingrained in me
17 from a very early age a strong moral compass. As far back as
18 I can remember, I've known the difference between right and
19 wrong.

20 I recall an incident that happened when I was about
21 six years old. My sister Nancy, who is almost two years
22 younger, and I walked several blocks away from home to the
23 local convenience store to buy cigarettes for my mother.
24 This was obviously a different time. Today my mother would
25 probably be arrested for child abuse for having sent us to

1 the store alone.

2 My sister revealed to me that she had taken some
3 candy without paying for it. In other words, she stole it.
4 As soon as we arrived home, I told my mother, who made it
5 absolutely clear that she was very displeased.

6 She immediately took my sister and me back to the
7 store, where she had to tell the store owner what she had
8 done and to return the candy, at least what she hadn't
9 already eaten. My mother paid the store owner for the rest,
10 and we went home.

11 My sister was devastated. I felt bad that I had
12 told on her, but I also knew that it was the right thing to
13 do. Taking property that doesn't belong to us is wrong.
14 It's theft. Coincidentally, my sister has never been in
15 trouble with the law since that day.

16 As for my present circumstance, I wish for the
17 Court to know that I didn't just wake up one morning and
18 decide to stop reporting my income from my private anesthesia
19 practice and stop paying income tax on those monies. I felt
20 compelled to do what I thought was right at the time, just as
21 when I was a boy.

22 After the financial crisis of 2008, I came to
23 believe, as I think many Americans did, that there was
24 something very wrong happening in our country, and that maybe
25 we weren't being told the whole truth.

1 Having worked as a mortgage loan officer and broker
2 in the late 1980s, I knew that what we were being told on the
3 news, that the mortgage crisis was the result of the actions
4 of greedy and unscrupulous loan officers and borrowers was,
5 at best, only partially correct, and more likely frankly
6 wrong.

7 Rather, I knew or I thought that I knew that the
8 actual cause was poorly-enacted Governmental legislation and
9 regulation, coupled with greed and speculation on the part of
10 the Wall Street bankers.

11 And I thought that if this were the case, then what
12 other misinformation were we being fed? Thus, in earnest, I
13 began to seek out the truth. Some of what I subsequently
14 discovered frankly shocked me and motivated me to action.

15 In 2009 I began reading the book Cracking the Code
16 by Peter Hendrickson and found the information contained
17 within it very compelling, even more so because I was able to
18 corroborate it with third-party sources such as the U.S. Code
19 found on the website of the U.S. Congress and case law on the
20 U.S. Supreme Court website.

21 Although I have no legal background, everything
22 that I learned about the income tax simply made sense. In
23 his book, Hendrickson postulates that the federal income tax
24 is constitutional and completely legitimate, but also, that
25 the Government's taxing authority is strictly limited and,

1 therefore, in practice is frequently being misapplied, backed
2 up by legal progresses that are simply untrue, but almost
3 always go unchallenged.

4 So for my 2010 tax filing, I gathered the courage
5 and filed my return along with the appropriate documentation
6 as recommended in the book to specifically rebut the W2
7 information returned that my employer had sent to the IRS.

8 The IRS then sent me a notice claiming that my
9 return was frivolous and that I would be required to pay a
10 penalty. I had been forewarned that this may happen. So I
11 was prepared to immediately respond with a letter requesting
12 that I be sent a certified copy of the assessment, one in
13 which the auditor is required to sign, quote, "under penalty
14 of perjury," unquote, that I had a legal tax liability, and
15 to state the exact nature of the supposed infraction that led
16 to the penalty being imposed.

17 This was never received by me. Rather, there was
18 additional correspondence sent back and forth, including many
19 letters from the IRS stating that they were, quote, "looking
20 into the matter," unquote.

21 Finally, after an eight and a half month audit by
22 mail, I received notice that the matter had been closed. I
23 was informed that I was entitled to receive a 100 percent
24 refund of everything that had been withheld from my pay,
25 including federal income tax, Medicare and Social Security

1 tax, plus \$245.37 in interest added. The check that I
2 subsequently received from the Treasury still had some
3 penalty monies withheld, but I considered getting back the
4 bulk of my money a win.

5 In 2011, I began working as an independent
6 anesthesiologist through locums agencies. So taxes were no
7 longer being withheld from my pay. But 1099 information
8 returns were sent to the IRS, which made it necessary for me
9 to file a tax return for 2011, again, with documentation that
10 rebutted the presumption that the income that I received was
11 taxable.

12 The audit for this year started with an IRS notice
13 that I had a tax due in excess of \$105,000, which was
14 followed by many threatening letters, again, with claims of
15 my having filed a frivolous return.

16 This audit lasted much longer, approximately 23 1/2
17 months. I intermittently received letters stating that my
18 bill was increasing due to further interest and penalties;
19 over \$107,000, then over \$109,000. And finally, after about
20 23 months, I received -- I was told that I owed over
21 \$120,000.

22 Also, throughout this audit I received many
23 different notices that my case was being forwarded to other
24 offices for further review. My case must have been evaluated
25 by at least a dozen different IRS offices across this

1 country, all with the same response to my repeated requests
2 for a certified assessment: Silence.

3 Finally, after about 23 1/2 months, I received
4 official notice that my case had been closed. The audit
5 determined that I was, in fact, correct and had an
6 outstanding balance due of zero dollars.

7 Because of the positive success I was having in my
8 dealings with the IRS, my confidence soared, as might
9 reasonably be expected, and led me to encourage my wife to
10 allow me to begin filing on her behalf as well. Again, we
11 experienced at least initially success.

12 After a lengthy mail audit, she was notified that
13 she was entitled to a refund of \$32,729 for tax year 2011 and
14 \$61,196.79 for 2012. However, refund checks were never
15 received. Instead, after a year or two, the IRS began
16 auditing her for those years.

17 As recently as January 2018 we solicited the aid of
18 the IRS Taxpayer Advocate Office here in Pittsburgh without
19 any resolution.

20 Then in May 2018 we were informed that we were
21 under investigation by the Defendant of Justice. We
22 immediately began cooperating with the Government.

23 In thinking about this case, the words of an
24 ancient Greek philosopher named Epictetus come to mind. He
25 said, quote, "Appearances are of four kinds. Things either

1 are what they appear to be; or they neither are, nor appear
2 to be; or they are, and do not appear to be; or they are not,
3 and yet appear to be. Rightly to aim in all these cases is
4 the wise man's task."

5 I wish that the Government could have found a
6 better way to deal with this case, although I clearly
7 understand why it came to this. I hold no ill will towards
8 those individuals acting on behalf of the Government who are,
9 after all, simply doing their jobs.

10 After much soul searching, I came to realize that
11 what I did was wrong, and I am deeply sorry for my actions,
12 and I certainly cannot in good conscience recommend that
13 anyone attempt to follow the same path, regardless of how
14 alluring the message contained in Cracking the Code may seem.

15 I apologize to my wife, my family, my colleagues
16 and my friends for having taken them down this disastrous
17 road with me. I recognize that my actions were misguided,
18 and I simply wish to move past this and get on with my life,
19 whatever it may be salvaged after this experience.

20 My greatest regret is that I will never -- may
21 never again be able to work as an anesthesiologist, a job
22 that required that I train for 13 1/2 years, and one that I
23 couldn't wait to get up for in the morning most days to go
24 do.

25 It is my hope that the Court will take into

1 consideration the extraordinary extenuating circumstances of
2 this case when deciding my fate.

3 I can only hope that there will be a path for
4 redemption laid out for me and that, if the Court should see
5 fit to show leniency, that the state licensing authorities
6 will be encouraged to consider allowing me to once again
7 practice anesthesia, which will then provide me a realistic
8 means to be able to pay whatever civil penalties await me.

9 I desperately wish once again to become a
10 productive member of society. I thank the Court for its
11 thoughtful consideration of my plea for leniency.

12 THE COURT: Thank you, sir. Anything else on
13 behalf of the Defendant?

14 MR. DELUCA: No, Your Honor.

15 THE COURT: Sir, are you satisfied with your
16 attorney's representation and service?

17 THE DEFENDANT: I am.

18 THE COURT: Has he done everything you've asked him
19 to do?

20 THE DEFENDANT: He has.

21 THE COURT: Is there anything he's done that you
22 think he should not have done?

23 THE DEFENDANT: Bill me. I'm sorry for being --
24 no. And he's been an excellent attorney.

25 THE COURT: On behalf of the Government, please?

1 MR. BROOKER: Briefly, if I may, Your Honor --

2 THE COURT: Briefly is always good.

3 MR. BROOKER: Thank you, Your Honor. The
4 Government's consciously asking for a 24 to 30-month
5 guideline sentence in this case and does not believe that a
6 departure or variance is warranted here.

7 There's an old saying that when you really do not
8 want to do something, anything is a good excuse. And I
9 believe that's applicable in this case.

10 To be sure, Dr. Allen did submit a \$900,000 check
11 in restitution for the potential judgment amount, but where
12 did this \$900,000 check come from? Where did the moneys from
13 this check come from? Where did the amount that he was able
14 to graciously give to homeless people on the streets come
15 from?

16 It's nearly a million dollars that he didn't pay in
17 taxes to the IRS. And the \$900,000 came from an HSBC account
18 offshore in a known tax haven that was repatriated to the
19 United States to an HSBC account in the United States and
20 then used to pay this amount.

21 Now, it seems that in 2008 or 2009, Dr. Allen is
22 saying that he became educated through this tax defier
23 nonsense by Pete Hendrickson. But nowhere in Pete
24 Hendrickson's materials or book does it advise to hide income
25 offshore or to use nominee entities to hide assets.

1 And you can see that at Exhibit D to the
2 Government's sentencing memorandum where Pete Hendrickson
3 wrote after Jim Allen was being investigated by the
4 Department of Justice, and I quote, "As Jim explained it to
5 me, after being targeted for the poster-child role in the
6 suppress CtC," or Cracking the Code, "campaign in April of
7 2018, back even before Cracking the Code was published, and
8 long before Jim found his way to it," meaning Cracking the
9 Code, "he and his wife have ranged far afield in efforts to
10 avoid the income tax. These included creating a fake
11 religious entity through which they routed their earnings and
12 in the name of which they bought their house and their cars,
13 and concealing assets in offshore bank accounts. It was only
14 many years after getting entangled in all their bad choices
15 that Jim found Cracking the Code," end quote.

16 Now, this isn't what we heard in the allocution.
17 Dr. Allen mentioned that this all happened when he learned
18 about Cracking the Code in 2008 or 2009.

19 However, in 2004, well before he found Cracking the
20 Code, Dr. Allen established the Kenpo Unification Church, a
21 corporation's soul in which he was the presiding elder. And
22 in that entity, it held a vehicle, a bank account, and it
23 paid utilities. This was in 2004.

24 Now, the Kenpo Unification Church in the PSR at
25 Paragraph 54, where did that name come from? As Probation

1 discovered, Dr. Allen was a black belt candidate in the
2 martial art of American Kenpo.

3 When you don't want to do something, Your Honor,
4 anything is a good excuse. Dr. Allen didn't want to pay his
5 taxes. He simply found a book, latched on to it, and uses it
6 as an excuse to this day.

7 We believe a guideline sentence is warranted.
8 Thank you, Your Honor.

9 THE COURT: First of all, turning to Defendant's
10 request for a downward departure and/or downward variance,
11 the Defendant's request for downward departure and/or
12 variance is denied for reasons that will be explained in
13 greater detail in a few moments.

14 Having reviewed all the documents filed relevant to
15 this sentencing and heard arguments in court today, the Court
16 finds Defendant has not met either his burden of production
17 or persuasion with respect to his request for a downward
18 departure from the advisory sentencing guidelines.

19 Similarly, with respect to Defendant's request for
20 downward variance for the reasons that will be explained in
21 greater detail in a few moments, the Court finds that, having
22 reviewed again all the documents filed and considering the
23 arguments today relating to sentencing, a sentence within the
24 applicable advisory guideline range is sufficient but no
25 greater than necessary to comply with the goals of

1 sentencing, as set forth in the United States Code Title 18
2 Section 3553.

3 Sir, pursuant to the Sentencing Reform Act of 1984,
4 it is the judgment of the Court that the Defendant be
5 sentenced to 30 months imprisonment at the high end of the
6 guideline range. The Defendant's term of imprisonment is to
7 be followed by one year of supervision, supervised release.

8 In addition, it is further ordered that the
9 Defendant shall pay restitution to the Internal Revenue
10 Service in the amount of \$1,084,658.52.

11 In addition to that penalty, interest and penalties
12 should be added. Payment should be forwarded to the Clerk of
13 Court in the United States Courthouse, Post Office Box 1805,
14 Pittsburgh, Pennsylvania, 15230. The Clerk shall forward the
15 payments to the following address of the IRS, which will be
16 set forth in the judgment and commitment order.

17 Defendant shall make restitution payments from any
18 wages he earns while in prison in accordance with the Bureau
19 of Prisons Inmate Financial Responsibility Program. Any
20 portion not paid in full at the time of the Defendant's
21 release from imprisonment shall be paid as a condition of
22 supervision.

23 The victim's recovery, i.e. the IRS, is limited to
24 the amount of its loss, and Defendant's liability for
25 restitution ceases if and when the victim receives full

1 restitution.

2 The Court finds that the Defendant does have the
3 ability to pay interest. In addition, the Defendant is
4 ordered to pay a fine of \$10,000.

5 Sir, within 72 hours of release from the Bureau of
6 Prisons, you shall report in person to the Probation Office
7 in the District to which the Defendant is released to be
8 placed on supervised release.

9 While on supervised release, the Defendant shall
10 not commit another federal, state or local crime, shall
11 comply with the standard conditions that have been adopted by
12 this Court, and shall comply with the following additional
13 conditions:

14 One, the Defendant shall not illegally possess a
15 controlled substance. Supervised release must be revoked for
16 possession of a controlled substance.

17 Two, Defendant shall not possess a firearm,
18 ammunition, destructive device or other dangerous weapon.
19 Supervised release must be revoked for possession of a
20 firearm, ammunition, destructive device or other dangerous
21 weapon.

22 Three, Defendant shall timely file local, state and
23 federal income tax returns and cooperate with the Internal
24 Revenue Service in the collection of any past due taxes,
25 including penalties or interest.

1 Four, Defendant shall pay restitution that is
2 imposed by this judgment that remains unpaid at the
3 commencement of the term of supervised release at the rate of
4 not less than 10 percent of his gross monthly earnings, but
5 in any event not less than \$2,000 per month. The first
6 payment shall be made within 30 days of his release from the
7 custody of the Bureau of Prisons.

8 Five, Defendant shall cooperate and provide to the
9 Probation Officer access to any requested financial
10 information.

11 Six, the Defendant is prohibited from incurring new
12 credit card charges or opening additional lines of credit
13 without prior written approval of the Probation Officer.

14 Seven, while any portion of the restitution remains
15 outstanding, the Defendant shall provide the United States
16 Attorney's Office with any change of address within 30 days.

17 Eight, the Defendant shall pay the fine in the
18 amount of \$10,000 to the Clerk of Court of the United States
19 District Court for the Western District of Pennsylvania,
20 Attention, Finance Department, 700 Grant Street, Suite 3110,
21 Pittsburgh, PA 15219.

22 Defendant shall make payment to satisfy this
23 criminal monetary penalty in the following manner:

24 Monthly payments of \$1,000 or ten percent of
25 Defendant's gross monthly earnings, whichever is greater.

1 The first payment shall be made within 30 days following
2 Defendant's discharge from incarceration and continue until
3 the criminal monetary payment is paid in full. And Defendant
4 shall be responsible for providing proof of payment to the
5 Probation Officer, as directed.

6 Nine, Defendant shall cooperate in the collection
7 of DNA, as directed by the Probation Officer. The periodic
8 drug testing mandated by the Violent Crime Control and Law
9 Enforcement Act of 1994 is hereby waived. The Court finds
10 this offense is not drug related, and the Defendant has no
11 current or past history of illegal substance abuse.

12 The Court imposes a mandatory special assessment of
13 \$100, constituting a \$100 special assessment at each count to
14 which the Defendant has pled guilty, which shall be paid to
15 the Clerk of Court forthwith.

16 Sir, the reason for your sentence is as follows:

17 The Court considers a sentence of 30 months
18 imprisonment, one year of supervised release, restitution in
19 the amount of \$1,084,658.52, and a fine of \$10,000 to be
20 sufficient but no greater than necessary to comply with the
21 goals of sentencing as set forth in Title 18 United States
22 Code Section 3553(a)(2), which are to reflect the seriousness
23 of the offense, to promote respect for the law and provide
24 for just punishment, to afford adequate deterrence to
25 criminal conduct, to protect the public from further crimes

1 by this Defendant, and to provide the Defendant with needed
2 educational or vocational training, medical care or other
3 correctional treatment in the most effective manner.

4 The Court has considered all of the sentencing
5 factors set forth in Title 18 United States Code Section
6 3553(a), including those presented by the Government and
7 defense and as set forth in the Presentence Investigation
8 Report and addendum thereto.

9 Further, the Court has considered the following:

10 First, the nature and circumstances of the offense.
11 The Defendant filed individual income tax returns, Forms 1040
12 and 1040EZ for the years 2010 through 2017 on which he failed
13 to report any income received from his work as an
14 anesthesiologist.

15 Defendant also caused his wife to file individual
16 income tax returns Forms 1040 and 1040A for the years 2011
17 through 2017, on which she failed to report any of her income
18 that she received for her work as an anesthesiologist, and a
19 false individual income tax return Form 1040 for the year
20 2010, for which she failed to report a portion of her wages
21 for that year.

22 The IRS calculated that the false returns filed by
23 Defendant and his wife for the years 2010 through 2017
24 resulted in a tax loss of more than \$900,000.

25 While the Defendant seeks to de-emphasize his

1 culpability in this tax fraud scheme, the Court finds
2 Defendant's contention that over an eight-year period that he
3 earnestly believed that the substantial income that he and
4 his wife received for their services as anesthesiologists in
5 the sum of more than \$3 million was not taxable income lacks
6 credibility.

7 The Defendant even today, instead of admitting his
8 guilt, attempts to walk back from his guilty plea or at least
9 his admission of guilt and tries to portray himself as a
10 victim of some book. His position is not credible. Many
11 hard-working citizens and others regularly pay their income
12 tax that is due and make substantially less than he and his
13 wife made during this time period.

14 Secondly, the Court has considered Defendant's
15 criminal and family and social history. The Defendant has no
16 criminal history. His sole criminal conduct was driving
17 under the influence when he was approximately 20 years old.

18 The Defendant is currently approximately 53 years
19 old. He was raised in Philadelphia by his parents until they
20 were divorced when he was approximately twelve years old. He
21 has one sister who spoke today, and I thank her for her
22 statements on the Defendant's behalf.

23 His father's deceased, and his mother lives in
24 Philadelphia. He communicates with her regularly. The
25 Defendant is currently married and resides in Philadelphia,

1 Pennsylvania, with his wife and son.

2 To the Defendant's credit, despite a difficult
3 childhood, Defendant graduated from medical school in
4 Philadelphia in 2001 with a degree in osteopathic medicine.
5 He thereafter trained as an anesthesiologist and is currently
6 unemployed.

7 He has a history of drinking alcohol, but has not
8 had any according to the Presentence Investigation Report
9 since 2018. He reported he tried marijuana one time when he
10 was a teenager, but has not tried any illicit drugs. Thus,
11 the Court waived the mandatory drug testing for this
12 Defendant.

13 Third, the Court has considered the kinds of
14 sentences available for this offense and the sentencing
15 guideline range under the advisory guidelines and applicable
16 policy statements adopted by the Sentencing Commission.

17 Pursuant to the United States Sentencing Guidelines
18 Section 5C1.1(f), because the Defendant's advisory guideline
19 range is in Zone D of the sentencing table, absent a variance
20 or departure, the advisory guideline recommended Defendant's
21 minimum sentence shall be satisfied by a term of
22 imprisonment.

23 The Court finds a sentence of imprisonment of 30
24 months is necessary and reasonable. Hopefully this sentence
25 will deter both the Defendant and others. The lesson is a

1 simple one. If you violate the Internal Revenue law by
2 failing to report taxable income even, if you are willing to
3 do so and ultimately pay the back taxes once you are caught,
4 you could be imprisoned.

5 Fourth, the Court has considered the need to avoid
6 unwarranted sentencing disparities among Defendants with
7 similar records who have been found guilty of similar
8 conduct. To grant a noncustodial sentence in this case would
9 certainly create sentencing disparities with other Defendants
10 who have been found that they have failed to pay fraudulently
11 their required income tax.

12 Finally, the Court has considered the need for
13 restitution to any victims and has so provided.

14 Does my statement of reasons adequately address all
15 objections, concerns and issues raised by the Government?

16 MR. BROOKER: Yes, it does, Your Honor.

17 THE COURT: Raised by the Defendant?

18 MR. DELUCA: Yes, Your Honor.

19 THE COURT: Are there any other sentencing factors
20 under Section 3553(a) that the Court has failed to address?

21 MR. BROOKER: No, Your Honor.

22 MR. DELUCA: No, Your Honor.

23 THE COURT: Sir, I'm going to speak about your
24 right to appeal. Except as otherwise waived in the plea
25 agreement, you have the right to appeal from the orders of

1 this Court, the judgment of guilty and/or from the sentence
2 imposed.

3 You have the right to have an attorney represent
4 you on appeal at no cost to you. If you cannot afford them,
5 certified copies of the necessary records and transcripts
6 will be furnished at the expense of the United States
7 Government. If you appeal, the notice of appeal must be
8 filed within 14 days from today. Otherwise, you will lose
9 your right to appeal.

10 If you request, the Clerk of Court will immediately
11 prepare and file a notice of appeal on your behalf. I would
12 appreciate it if you would kindly talk to your counsel and
13 tell me whether you wish the Clerk of Court to immediately
14 prepare and file a notice of appeal on your behalf.

15 THE DEFENDANT: No, sir.

16 THE COURT: Do you understand if you change your
17 mind and decide to appeal, any notice of appeal must be filed
18 within 14 days of today? Otherwise, you will lose your right
19 to appeal?

20 THE DEFENDANT: I do.

21 THE COURT: And if you change your mind and decide
22 to appeal, you'll use your current counsel to file that
23 appeal?

24 THE DEFENDANT: I understand.

25 THE COURT: Any request as to location or any other

1 matter relating to his imprisonment?

2 MR. DELUCA: He's requesting Fort Dix, New Jersey,
3 because it's close to his residence and will permit his wife
4 to visit him.

5 THE COURT: Any objection?

6 MR. BROOKER: None, Your Honor.

7 THE COURT: I'll so make that request; and
8 secondly, if that facility is not available for whatever
9 reason, that he be incarcerated as close as possible to --
10 which city in New Jersey?

11 THE DEFENDANT: Philadelphia, Pennsylvania.

12 THE COURT: As close as possible to Philadelphia,
13 Pennsylvania.

14 What's the Government's position as to whether the
15 Defendant should be permitted to voluntarily surrender?

16 MR. BROOKER: Your Honor, the Government believes
17 that he should be permitted to voluntarily surrender in this
18 case.

19 THE COURT: Pursuant to Title 18 United States Code
20 Sections 3143(a) and 3145(c), the Court finds by clear and
21 convincing evidence that the Defendant is not a flight risk
22 based upon his ties to the community and his consistent
23 compliance with the presentencing requirements, because of
24 his lack of criminal violent history, he is not a danger to
25 any other person or the communities, and there are

1 exceptional circumstances so that he may have time to get his
2 personal and family affairs in order, and, therefore, orders
3 that the Defendant shall voluntarily surrender to the
4 institution designated by the Bureau of Prisons, as notified
5 by the United States Marshal Service, but no later than the
6 16th day of March, 2020.

7 Up to and including that time, Defendant shall
8 remain subject to all conditions previously set by the Court
9 as part of his pretrial release. Therefore, the existing
10 order for release remains in effect subject to the standard
11 conditions of pretrial release as set forth in the order
12 setting conditions of release and the following additional
13 conditions:

14 One, if the Defendant has a passport, then within
15 ten days Defendant shall surrender said passport, as directed
16 by the Probation Office, which shall hold said passport until
17 his term of supervised release is complete.

18 Two, Defendant shall not depart from the Eastern
19 District of Pennsylvania except to the extent that he's
20 required to appear in the Western District of Pennsylvania.

21 Three, Defendant shall refrain from possession of a
22 firearm, destructive device or other dangerous weapon.

23 Four, the Defendant shall refrain from the excess
24 use of alcohol.

25 Five, the Defendant shall refrain from the use or

1 unlawful possession of a narcotic drug unless prescribed by a
2 licensed medical practitioner.

3 Six, the Defendant shall submit to any method of
4 testing required by the Pretrial Service Office for
5 determining whether the Defendant is using a prohibited
6 substance.

7 Seven, the Defendant shall participate in a program
8 of inpatient or outpatient substance abuse and counseling if
9 deemed advisable by the Pretrial Service Office.

10 Eight, Defendant shall refrain from obstructing in
11 any fashion the efficiency and accuracy of any prohibited
12 substance testing.

13 Nine, Defendant shall report as soon as possible to
14 the Pretrial Service Office any contact with any law
15 enforcement personnel, including but not limited to any
16 arrest, questioning or traffic stop. Understand, sir?

17 THE DEFENDANT: I do, but I do have a question.
18 Since I currently reside in Philadelphia, is the office that
19 I will be reporting to here in Pittsburgh or in Philadelphia?

20 THE COURT: I don't know the answer to that, but
21 you can talk to your Probation Officer or the Pretrial
22 Service Officer to answer that question. Do you know the
23 answer to that question?

24 PROBATION OFFICER: He currently is under
25 supervision. He was just released on pretrial bond, so he

1 will report downstairs and speak with an officer.

2 THE COURT: So you would report on that date of
3 March 16, 2020, to the United States Marshal's Office in the
4 Western District of Pennsylvania in this building unless you
5 receive notification as to which Federal Correctional
6 Institution you're directed to beforehand.

7 THE DEFENDANT: So if I am directed to Fort Dix --
8 excuse me --

9 THE COURT: If you have questions relating to that
10 matter, you need to talk to the Pretrial Service Office --

11 THE DEFENDANT: Yes, sir.

12 THE COURT: -- and/or your counsel. So do you
13 understand the conditions of your release pending
14 incarceration?

15 THE DEFENDANT: Yes. I do.

16 THE COURT: Do you further understand that you must
17 report as notified by the United States Marshal Service, but
18 no later than the 16th day of March 2020, or you'll be guilty
19 of violating the Bail Reform Act, which carries a maximum
20 sentence of ten years imprisonment consecutive to any other
21 sentence I've imposed today, a fine of \$250,000 plus
22 interest, and it could also result in the forfeiture of any
23 bond posted? Understand?

24 THE DEFENDANT: I understand.

25 THE COURT: Anything else on behalf of the

1 Government?

2 MR. BROOKER: No, Your Honor.

3 THE COURT: Defendant?

4 MR. DELUCA: No, Your Honor.

5 THE COURT: Again, I want to thank those that spoke
6 today and that came here supporting the Defendant.

7 DEPUTY CLERK KRINGS: Court is adjourned.

8 (Proceedings were concluded at 11:03 a.m.)

9 - - -

10

11

12

13

14

15

16

17

18

C E R T I F I C A T E

19

20 I, Deborah Rowe, certify that the foregoing is
21 a correct transcript from the record of proceedings in the
22 above-titled matter.

23

24 S/Deborah Rowe _____

25 Certified Realtime Reporter