

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

JUDGE WALKER D. MILLER

COURTROOM MINUTES

Courtroom Deputy: LaDonne Bush
Court Reporter: Janet Coppock
Probation Officer: Jan Woll

Date: June 16, 2006

Criminal Action No. 05-cr-00348-WDM

Parties

Counsel

UNITED STATES OF AMERICA,

Kenneth Harmon

Plaintiff,

vs.

1. GODERICK AUGUSTUS BENJAMIN,

Edward Pluss

Defendant.

SENTENCING

9:05 a.m. COURT IN SESSION

Defendant is present and on bond.

ORDERED: The statement of facts in the Plea Agreement and the Presentence Report are not disputed by the parties and are adopted in the Court's factual findings in this case.

The report is incorporated by reference as part of the Court's findings and conclusions.

Statement by the Court regarding defendant's offense level, criminal history level and

sentencing guidelines range.

Statements by Mr. Pluss.

Statement by Defendant.

Statement by Mr. Harmon.

Defendant plead guilty to Counts 3 and 56 of the Indictment on January 5, 2006.

RECOMMENDATION OF THE PROBATION OFFICER IS AS FOLLOWS:

	<u>Guideline Provision</u>	<u>Recommended Sentence</u>
<u>Custody</u>	33 to 41 months	33 months
<u>Supervised Release</u>	two to three years	three years
<u>Probation</u>	Not eligible	Not recommended
<u>Fine</u>	\$6,000 to \$60,000	Not recommended
<u>Special Assessment</u>	\$200	\$200
<u>Restitution</u>		Mandatory \$417,583

ORDERED: Motion for Downward Departure (Doc. 33) is withdrawn.

ORDERED: Defendant shall be imprisoned for 24 months.

Court recommends that the Bureau of Prisons place the defendant at the federal prison camp in Alderson, West Virginia.

ORDERED: Upon release from imprisonment, defendant shall be placed on supervised release for a period of three years.

ORDERED: Conditions of Supervised Release that:

- (X) Within 72 hours of release from the custody of the Bureau of Prisons, defendant shall report in person to the nearest probation office.
- (X) Defendant shall not commit another federal, state or local crime.
- (X) Defendant shall not possess a firearm.
- (X) Defendant shall comply with standard conditions adopted by the Court.

- (X) Mandatory drug testing provisions of 18 U.S.C. § 3583(d) are WAIVED because defendant appears to be a low risk of substance abuse.
- (X) Defendant shall cooperate in the collection of a DNA sample.

ORDERED: **Special Conditions** of Supervised Release that:

- (X) Defendant shall not incur new credit charges or open additional lines of credit without the consent of the probation officer unless he is in compliance with the periodic payment obligations set forth by the Court.
- (X) Defendant shall work with the probation officer in developing a monthly budget to be reviewed by the probation officer on a quarterly basis.
- (X) Defendant shall make payment on the restitution obligation. Within 60 days of release he shall meet with a probation officer and develop a plan for payment of the restitution which shall be reviewed by the Court for reasonableness.
- (X) Defendant shall cooperate with the Internal Revenue Service in the assessment and collection of taxes, and shall file truthful and accurate income tax returns.

ORDERED: Defendant shall make restitution to Wal-Mart in the amount of \$417,583. Restitution shall be paid during supervised release in the amount of at least \$200 a month, to be determined ultimately by the probation officer and reviewed with defendant. Disbursement shall be deferred until at least \$600 is available in the registry to be paid to the victim. Interest on the restitution amount is waived.

ORDERED: Defendant shall pay \$200 Special Assessment, to be paid immediately.

ORDERED: No fine is imposed because defendant has no ability to pay a fine.

Court finds that defendant is not likely to flee.

ORDERED: Defendant may self-surrender before noon on August 13, 2006, at the institution designated by the Bureau of Prisons.

Defendant advised of his right to appeal.

ORDERED: Defendant's pleas of guilty to Counts 3 and 56 of the Indictment are accepted.

Discussion regarding defendant's passport.

ORDERED: Motion to Dismiss Counts (Doc. 34) is granted.

9:47 a.m. COURT IN RECESS

Total time in court: 47 minutes. Hearing concluded.