



U.S. Department of Justice

Executive Office for United States Attorneys

Freedom of Information and Privacy Staff

Suite 5.400, 3CON Building
175 N Street, NE
Washington, DC 20530

(202) 252-6020
FAX (202) 252-6048

September 29, 2020

SENT VIA FOIAONLINE: foia@americanoversight.org

Austin Evers
American Oversight
1030 15th Street NW, Ste. B255
Washington, DC 20005

Re: Request Number: EOUSA-2020-001691
Date of Receipt: February 21, 2020
Subject of Request: Emails/Documents Concerning the Government's Supplemental and Amended Sentencing Memorandum, Criminal No. 19-cr-18-ABJ, ECF No. 286 (D.D.C. Feb. 11, 2020)/ USAO-District of Columbia

Dear Mr. Evers:

Your request for records under the Freedom of Information Act/Privacy Act has been processed. This letter constitutes the third interim reply from the Executive Office for United States Attorneys, the official record-keeper for all records located in this office and the various United States Attorneys' Office.

To provide you with the greatest degree of access authorized by the Freedom of Information Act and the Privacy Act, we have considered your request in light of the provisions of both statutes.

The records you seek are located in a Privacy Act system of records that, in accordance with regulations promulgated by the Attorney General, is exempt from the access provisions of the Privacy Act. 28 CFR § 16.81. We have also processed your request under the Freedom of Information Act and are making all records required to be released, or considered appropriate for release as a matter of discretion, available to you. This letter is a [] partial grant.

Enclosed please find:

- 97 page(s) are being released in full (RIF);
- 97 page(s) are being released in part (RIP);
- 182 page(s) are withheld in full (WIF);
- 17 page(s) are withheld in full (WIF) on behalf of the Office of Information Policy.

The redacted/withheld documents were reviewed to determine if any information could be segregated for release.

The exemption(s) cited for withholding records or portions of records are marked below. An enclosure to this letter explains the exemptions in more detail.

(b)(5)
(b)(6)
SEALED

[X] A review of the material revealed:

[X] Our office located records that originated with another government component. **These records were found in the U.S. Attorney's Office files.** These records will be referred to the following component(s) listed for review and direct response to you: **Federal Bureau of Investigation (FBI).**

Seventeen pages containing records responsive to your request are being withheld in full, on behalf of the Office of Information Policy (OIP), pursuant to Exemption 5 of the FOIA, 5 U.S.C. § 552(b)(5). Exemption 5 pertains to certain inter- and intra-agency communications protected by civil discovery privileges. Portions of these pages are also being withheld in part, on behalf of EOUSA, pursuant to Exemption 6 of the FOIA, 5 U.S.C. § 552(b)(6). Exemption 6 pertains to information the release of which would constitute a clearly unwarranted invasion of personal privacy.

This is the final response regarding this above-numbered request. If you are not satisfied with EOUSA's response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, Sixth Floor, 441 G Street, NW, Washington, DC 20530, or you may submit an appeal through OIP's FOIA STAR portal by creating an account following the instructions on OIP's website: <https://www.justice.gov/oip/submit-and-track-request-or-appeal>. Your appeal must be postmarked or electronically transmitted within ninety (90) days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

You may contact our FOIA Public Liaison at the telephone number listed above for any further assistance and to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001; e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Sincerely,



Kevin Krebs
Assistant Director

EXPLANATION OF EXEMPTIONS

FOIA: TITLE 5, UNITED STATES CODE, SECTION 552

- (b)(1) (A) specifically authorized under criteria established by and Executive order to be kept secret in the in the interest of national defense or foreign policy and (B) are in fact properly classified pursuant to such Executive order;
- (b)(2) related solely to the internal personnel rules and practices of an agency;
- (b)(3) specifically exempted from disclosure by statute (other than section 552b of this title), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;
- (b)(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;
- (b)(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;
- (b)(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;
- (b)(7) records or information compiled for law enforcement purposes, but only the extent that the production of such law enforcement records or information (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or (F) could reasonably be expected to endanger the life or physical safety of any individual.
- (b)(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or
- (b)(9) geological and geophysical information and data, including maps, concerning wells.

PRIVACY ACT: TITLE 5, UNITED STATES CODE, SECTION 552a

- (d)(5) information compiled in reasonable anticipation of a civil action proceeding;
- (j)(2) material reporting investigative efforts pertaining to the enforcement of criminal law including efforts to prevent, control, or reduce crime or apprehend criminals;
- (k)(1) information which is currently and properly classified pursuant to Executive Order 12356 in the interest of the national defense or foreign policy, for example, information involving intelligence sources or methods;
- (k)(2) investigatory material compiled for law enforcement purposes, other than criminal, which did not result in loss of a right, benefit or privilege under Federal programs, or which would identify a source who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(3) material maintained in connection with providing protective services to the President of the United States or any other individual pursuant to the authority of Title 18, United States Code, Section 3056;
- (k)(4) required by statute to be maintained and used solely as statistical records;
- (k)(5) investigatory material compiled solely for the purpose of determining suitability eligibility, or qualification for Federal civilian employment or for access to classified information, the disclosure of which would reveal the identity of the person who furnished information pursuant to a promise that his identity would be held in confidence;
- (k)(6) testing or examination material used to determine individual qualifications for appointment or promotion in Federal Government service the release of which would compromise the testing or examination process;
- (k)(7) material used to determine potential for promotion in the armed services, the disclosure of which would reveal the identity of the person who furnished the material pursuant to a promise that his identity would be held in confidence.

ADDENDUM TO THE EXPLANATION OF EXEMPTION SHEET

- Rule 6(e) of the Federal Rules of Criminal Procedure pertains to the Federal Grand Jury, its integrity and the secrecy surrounding the Jury.

- Under the Freedom of Information Act, an agency has no discretion to release any record covered by an injunction, protective order, or court seal which prohibits disclosure. See GTE Sylvania, Inc. v. Consumers Union, 445 U.S. 375, 386-387 (1980); See also Robert Tyrone Morgan v. U.S. Dept. of Justice, 923 F.2d 195 (D.C. Cir. 1991).

From: DCD_ECFNotice@dcd.uscourts.gov
To: DCD_ECFNotice@dcd.uscourts.gov
Bcc: [Zelinsky, Aaron \(USAMD\)](mailto:Zelinsky, Aaron (USAMD))
Subject: Activity in Case 1:19-cr-00018-ABJ USA v. STONE Letter(s) in Support of Sentencing
Date: Tuesday, February 11, 2020 2:34:55 PM

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.

*****NOTE TO PUBLIC ACCESS USERS*** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.**

U.S. District Court

District of Columbia

Notice of Electronic Filing

The following transaction was entered on 2/11/2020 at 2:34 PM EDT and filed on 2/10/2020

Case Name: USA v. STONE
Case Number: [1:19-cr-00018-ABJ](https://ecf.dcd.uscourts.gov/caselist/1:19-cr-00018-ABJ)
Filer: Dft No. 1 - ROGER JASON STONE, JR
Document Number: [281](#)

Docket Text:

**LETTER IN SUPPORT OF SENTENCING as to ROGER JASON STONE, JR.
"Leave to file GRANTED" by Judge Amy B. Jackson on 2/10/2020. (zed,)**

1:19-cr-00018-ABJ-1 Notice has been electronically mailed to:

L. Peter Farkas

b6 per EOUSA

Marc Erik Elias

DocketWDC@PerkinsCoie.com

Uzoma Nkwonta

b6 per EOUSA

Jonathan Ian Kravis

b6 per EOUSA

, CaseView.ECF@usdoj.gov,
USADC.CriminalDocket@USDOJ.gov, USADC.ECFFraud@USDOJ.gov,

b6 per EOUSA

Michael John Marando

b6 per EOUSA

b6 per EOUSA

caseview.ecf@usdoj.gov, usadc.criminaldocket@usdoj.gov,
usadc.ecffraud@usdoj.gov

Aaron Simcha Jon Zelinsky

b6 per EOUSA

Robert C Buschel b6 per EOUSA

Grant J. Smith

Adam C. Jed b6 per EOUSA

Bruce S. Rogow b6 per EOUSA

Tara A. Campion

1:19-cr-00018-ABJ-1 Notice will be delivered by other means to::

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:suppressed

Electronic document Stamp:

[STAMP dcecfStamp_ID=973800458 [Date=2/11/2020] [FileNumber=6416812-0]
[5293ba112fde0a4a75360d4270bb29a8fff0895c0471cb25a9237b52829ff14b7a68
1856ead88d57f007068b808bb88c71b9f04e1ac3a1be5eea55db5e4a535e]]

From: DCD_ECFNotice@dcd.uscourts.gov
To: DCD_ECFNotice@dcd.uscourts.gov
Bcc: [Zelinsky, Aaron \(USAMD\)](#)
Subject: Activity in Case 1:19-cr-00018-ABJ USA v. STONE Motion to Withdraw as Attorney
Date: Tuesday, February 11, 2020 2:59:03 PM

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.

*****NOTE TO PUBLIC ACCESS USERS***** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.

U.S. District Court

District of Columbia

Notice of Electronic Filing

The following transaction was entered by Zelinsky, Aaron on 2/11/2020 at 2:58 PM EDT and filed on 2/11/2020

Case Name: USA v. STONE
Case Number: [1:19-cr-00018-ABJ](#)
Filer: USA
Document Number: [282](#)

Docket Text:

MOTION to Withdraw as Attorney by Aaron S.J. Zelinsky. by USA as to ROGER JASON STONE, JR. (Zelinsky, Aaron)

1:19-cr-00018-ABJ-1 Notice has been electronically mailed to:

Aaron Simcha Jon Zelinsky **b6 per EOUSA**

Adam C. Jed **b6 per EOUSA**

Bruce S. Rogow **b6 per EOUSA**

Grant J. Smith **b6 per EOUSA**

Jonathan Ian Kravis **b6 per EOUSA**, CaseView.ECF@usdoj.gov,
b6 per EOUSA, USADC.CriminalDocket@USDOJ.gov,
USADC.ECFFraud@USDOJ.gov

L. Peter Farkas **b6 per EOUSA**

Marc Erik Elias **b6 per EOUSA**, DocketWDC@PerkinsCoie.com

Michael John Marando [REDACTED] b6 per EOUSA
[REDACTED] b6 per EOUSA, caseview.ecf@usdoj.gov, usadc.criminaldocket@usdoj.gov,
usadc.ecffraud@usdoj.gov

Robert C Buschel

Tara A. Champion

Uzoma Nkwonta

1:19-cr-00018-ABJ-1 Notice will be delivered by other means to::

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:suppressed

Electronic document Stamp:

[STAMP dcecfStamp_ID=973800458 [Date=2/11/2020] [FileNumber=6416895-0]
[79d2eedb3e6c91340fe36d85f5b190b68b460cc41c2dbc72e357209c540757d38329
2d558154d4f7f863a30e17ddf08a30eb32bff2482752352dcd81cc0b886a]]

From: DCD_ECFNotice@dcd.uscourts.gov
To: DCD_ECFNotice@dcd.uscourts.gov
Bcc: [Zelinsky, Aaron \(USAMD\)](mailto:Zelinsky, Aaron (USAMD))
Subject: Activity in Case 1:19-cr-00018-ABJ USA v. STONE Notice of Attorney Appearance - USA
Date: Tuesday, February 11, 2020 4:38:39 PM

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.

*****NOTE TO PUBLIC ACCESS USERS*** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.**

U.S. District Court

District of Columbia

Notice of Electronic Filing

The following transaction was entered by Crabb, John on 2/11/2020 at 4:37 PM EDT and filed on 2/11/2020

Case Name: USA v. STONE
Case Number: [1:19-cr-00018-ABJ](#)
Filer: USA
Document Number: [284](#)

Docket Text:

NOTICE OF ATTORNEY APPEARANCE John Crabb, Jr appearing for USA. (Crabb, John)

1:19-cr-00018-ABJ-1 Notice has been electronically mailed to:

Aaron Simcha Jon Zelinsky

b6 per EOUSA

Adam C. Jed

b6 per EOUSA

Bruce S. Rogow

b6 per EOUSA

Grant J. Smith

John Crabb, Jr

b6 per EOUSA

USADC.CriminalDocket@usdoj.gov, usadc.ecffraud@usdoj.gov, usadc.ecfnatsec@usdoj.gov

L. Peter Farkas

b6 per EOUSA

Marc Erik Elias

DocketWDC@PerkinsCoie.com

Michael John Marando **b6 per EOUSA**
b6 per EOUSA caseview.ecf@usdoj.gov, usadc.criminaldocket@usdoj.gov,
usadc.ecffraud@usdoj.gov

Robert C Buschel **b6 per EOUSA**

Tara A. Campion

Uzoma Nkwonta

1:19-cr-00018-ABJ-1 Notice will be delivered by other means to::

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:suppressed

Electronic document Stamp:

[STAMP dcecfStamp_ID=973800458 [Date=2/11/2020] [FileNumber=6417194-0]
[50276c4beeb6672c6c899e365c3b374f4b685dfa6c51033eb806a9557aae828be531
4fba01ebe5ab4c7b5d6c44d3c6efaa9aa235cccd256b8c9eb3e4766ba5d1]]

From: DCD_ECFNotice@dcd.uscourts.gov
To: DCD_ECFNotice@dcd.uscourts.gov
Bcc: [Zelinsky, Aaron \(USAMD\)](#)
Subject: Activity in Case 1:19-cr-00018-ABJ USA v. STONE Sentencing Memorandum
Date: Monday, February 10, 2020 10:57:00 PM

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.

*****NOTE TO PUBLIC ACCESS USERS***** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.

U.S. District Court

District of Columbia

Notice of Electronic Filing

The following transaction was entered by Buschel, Robert on 2/10/2020 at 10:55 PM EDT and filed on 2/10/2020

Case Name: USA v. STONE
Case Number: [1:19-cr-00018-ABJ](#)
Filer: Dft No. 1 - ROGER JASON STONE, JR
Document Number: [280](#)

Docket Text:

SENTENCING MEMORANDUM by ROGER JASON STONE, JR (Attachments: # (1) Exhibit Letters of support)(Buschel, Robert)

1:19-cr-00018-ABJ-1 Notice has been electronically mailed to:

Aaron Simcha Jon Zelinsky

b6 per EOUSA

Adam C. Jed

b6 per EOUSA

Bruce S. Rogow

b6 per EOUSA

Grant J. Smith

Jonathan Ian Kravis

b6 per EOUSA

b6 per EOUSA

, CaseView.ECF@usdoj.gov,
USADC.CriminalDocket@USDOJ.gov,
USADC.ECFFraud@USDOJ.gov

L. Peter Farkas

b6 per EOUSA

Marc Erik Elias

DocketWDC@PerkinsCoie.com

Michael John Marando [REDACTED] b6 per EOUSA
[REDACTED] b6 per EOUSA caseview.ecf@usdoj.gov, usadc.criminaldocket@usdoj.gov,
usadc.ecffraud@usdoj.gov

Robert C Buschel [REDACTED] b6 per EOUSA
Tara A. Champion [REDACTED]
Uzoma Nkwonta [REDACTED]

1:19-cr-00018-ABJ-1 Notice will be delivered by other means to::

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:suppressed

Electronic document Stamp:

[STAMP dcecfStamp_ID=973800458 [Date=2/10/2020] [FileNumber=6415359-0]
[143f5a3643eee59e31d9bf1025b6074435fa683d0307db304da14925ff2bf933bb66
0fe265bce268a22e67daf90ed25f3e3a8b99e4e3baeca52ef550d05c6440]]

Document description:Exhibit Letters of support

Original filename:suppressed

Electronic document Stamp:

[STAMP dcecfStamp_ID=973800458 [Date=2/10/2020] [FileNumber=6415359-1]
[43b02957938eefa17360edd0aae2261a808e64a3cd41efa208ff5a0e7f1e90ea75f8
17418bd1836aa6e3543233e05ddb1cc1d8ff40e4b0d23dabe839156727d]]

From: DCD_ECFNotice@dcd.uscourts.gov
To: DCD_ECFNotice@dcd.uscourts.gov
Bcc: [Zelinsky, Aaron \(USAMD\)](#)
Subject: Activity in Case 1:19-cr-00018-ABJ USA v. STONE Sentencing Memorandum
Date: Monday, February 10, 2020 6:02:38 PM

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.

*****NOTE TO PUBLIC ACCESS USERS***** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.

U.S. District Court

District of Columbia

Notice of Electronic Filing

The following transaction was entered by Kravis, Jonathan on 2/10/2020 at 6:01 PM EDT and filed on 2/10/2020

Case Name: USA v. STONE
Case Number: [1:19-cr-00018-ABJ](#)
Filer: USA
Document Number: [279](#)

Docket Text:

SENTENCING MEMORANDUM by USA as to ROGER JASON STONE, JR (Kravis, Jonathan)

1:19-cr-00018-ABJ-1 Notice has been electronically mailed to:

Aaron Simcha Jon Zelinsky

b6 per EOUSA

Adam C. Jed

b6 per EOUSA

Bruce S. Rogow

b6 per EOUSA

Grant J. Smith

Jonathan Ian Kravis

b6 per EOUSA

CaseView.ECF@usdoj.gov,

b6 per EOUSA

USADC.CriminalDocket@USDOJ.gov,

USADC.ECFFraud@USDOJ.gov

L. Peter Farkas

b6 per EOUSA

Marc Erik Elias

DocketWDC@PerkinsCoie.com

Michael John Marando [REDACTED] b6 per EOUSA
[REDACTED] b6 per EOUSA, caseview.ecf@usdoj.gov, usadc.criminaldocket@usdoj.gov,
usadc.ecffraud@usdoj.gov

Robert C Buschel [REDACTED] b6 per EOUSA

Tara A. Champion [REDACTED]

Uzoma Nkwonta [REDACTED]

1:19-cr-00018-ABJ-1 Notice will be delivered by other means to::

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:suppressed

Electronic document Stamp:

[STAMP dcecfStamp_ID=973800458 [Date=2/10/2020] [FileNumber=6415153-0]
[36c775894c73a0bd75e8e8e97f87e21aa6ac3877f4b2af5bbeaeaa1120137a2fcf91
a5df8b0215c8405f96614a42ce191a86b0d3bcc1433471d78e4a2a5f47f]]

From: DCD_ECFNotice@dcd.uscourts.gov
To: DCD_ECFNotice@dcd.uscourts.gov
Bcc: [Zelinsky, Aaron \(USAMD\)](#)
Subject: Activity in Case 1:19-cr-00018-ABJ USA v. STONE Sentencing Memorandum
Date: Tuesday, February 11, 2020 4:46:09 PM

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.

*****NOTE TO PUBLIC ACCESS USERS*** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.**

U.S. District Court

District of Columbia

Notice of Electronic Filing

The following transaction was entered by Crabb, John on 2/11/2020 at 4:44 PM EDT and filed on 2/11/2020

Case Name: USA v. STONE
Case Number: [1:19-cr-00018-ABJ](#)
Filer: USA
Document Number: [286](#)

Docket Text:

SENTENCING MEMORANDUM by USA as to ROGER JASON STONE, JR (Crabb, John)

1:19-cr-00018-ABJ-1 Notice has been electronically mailed to:

Aaron Simcha Jon Zelinsky **b6 per EOUSA**

Bruce S. Rogow **b6 per EOUSA**

Grant J. Smith **b6 per EOUSA**

John Crabb , Jr **b6 per EOUSA**
USADC.CriminalDocket@usdoj.gov, usadc.ecffraud@usdoj.gov, usadc.ecfnatsec@usdoj.gov

L. Peter Farkas **b6 per EOUSA**

Marc Erik Elias **b6 per EOUSA** DocketWDC@PerkinsCoie.com

Michael John Marando **b6 per EOUSA**
b6 per EOUSA, caseview.ecf@usdoj.gov, usadc.criminaldocket@usdoj.gov,

usadc.ecffraud@usdoj.gov

Robert C Buschel

Tara A. Champion

Uzoma Nkwonta

b6 per EOUSA

1:19-cr-00018-ABJ-1 Notice will be delivered by other means to::

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:suppressed

Electronic document Stamp:

[STAMP dcecfStamp_ID=973800458 [Date=2/11/2020] [FileNumber=6417357-0]
[2f75c81f32a4b5ee13d40c0928ca5a0039b274f1724d8230d513076bc3ee7c504a49
65a72b08ec7342bb8aef800dbe8a790dbc5f96de9b9673437969d18877be]]

From: [Marando, Michael \(USADC\)](#)
To: [Kravis, Jonathan \(USADC\)](#); [Jed, Adam \(USADC\)](#); [Zelinsky, Aaron \(USAMD\)](#)
Subject: Can you let me know if this is OK?
Date: Monday, February 10, 2020 3:25:11 PM
Attachments: [Joint Submission re Redactions.docx](#)

Joint Proposed Submission re redacted documents

Michael J. Marando
Assistant United States Attorney
Fraud and Public Corruption Section
U.S. Attorney's Office for the District of Columbia
555 4th Street NW, Room 5241
Washington, D.C. 20530
202-252-7068

From: [John Kruzel](#)
Bcc: [Zelinsky, Aaron \(USAMD\)](#)
Subject: Could you add me to distro list for Stone filings?
Date: Monday, February 10, 2020 9:40:51 AM

Good Morning,

I'm covering the Roger Stone proceedings.

Could you please add me to any distribution lists related to court filings or statements regarding this matter?

Thanks,

John

--

John Kruzel
Legal Affairs Reporter
The Hill
b6 per EOUSA
[@johnkruzel](#)

From: [White Collar Law360](#)
To: [Zelinsky, Aaron \(USAMD\)](#)
Subject: Ex-Theranos CEO Says Bad Blood Tests Are A "Fact Of Life"
Date: Tuesday, February 11, 2020 3:30:34 AM

Law360 White Collar



WHITE COLLAR

Tuesday, February 11, 2020



TOP NEWS

Ex-Theranos CEO Says Bad Blood Tests Are A 'Fact Of Life'

Former Theranos CEO Elizabeth Holmes urged a California federal judge Monday to throw out criminal fraud charges over the viability of her once high-flying startup's blood-testing technology, arguing that the "massive" case is too vague and that "incorrect blood tests are a fact of life."

[Read full article »](#)

Weinstein Accusers' Ex-Pals Cast Doubt On Assault Claims

Two former friends of Harvey Weinstein's accusers undercut aspects of the sexual assault claims against the onetime Hollywood mogul in testimony Monday, bolstering Weinstein's contention the relationships were consensual.

[Read full article »](#)

Feds Rest Case In Avenatti's Nike Extortion Trial

New York federal prosecutors rested their case Monday against celebrity attorney Michael Avenatti over an alleged scheme to extort Nike Inc. for millions of dollars by threatening to go public with claims of corruption in the company's youth basketball operations.

[Read full article »](#)

Nixon Peabody May Represent 'Varsity Blues' Dad And USC

Nixon Peabody LLP can represent a father accused of bribing his child's way into the University of Southern California despite the fact that it is also representing the university, which the government frames as a victim in the "Varsity Blues" scandal, in an unrelated case, a Massachusetts federal magistrate judge said Monday.

Order attached | [Read full article »](#)

4 Chinese Military Members Charged With Equifax Hack

The U.S. has charged four members of the Chinese People's Liberation Army with carrying out the 2017 hack into consumer credit bureau Equifax that compromised personal data on 145 million people, the U.S. Department of Justice announced Monday.

Indictment attached | [Read full article »](#)

Sanctuary Belize Execs Point Fingers As Trial Winds Down

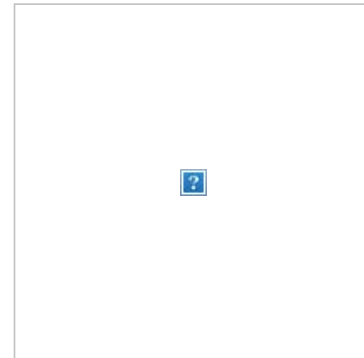
One of three executives on trial on allegations of running a \$140 million Belize-based real estate scam tried to pin the blame on his alleged co-conspirator Monday morning, testifying that his former partner funneled corporate funds to personal uses, including for a Harley Davidson and his child's braces.

[Read full article »](#)

SECURITIES

HSBC Gets Time To Disclose Trader Chats In Forex Suit

HSBC avoided having to trawl through its traders' messages over allegations



LAW FIRMS

[Aidala Bertuna](#)
[Arnold & Porter](#)
[Austin LLP](#)
[Bartlit Beck](#)
[Black Srebnick](#)
[Blank Rome](#)
[Bradley Arant](#)
[Bruce S. Rogow PA](#)
[Buschel & Gibbons](#)
[Campbell & Williams](#)
[Cleary Gottlieb](#)
[Cooley](#)
[Covington & Burling](#)
[Davis Polk](#)
[Davis Wright Tremaine](#)
[Dechert](#)
[Dentons](#)
[ElevateNext Law](#)
[Greenberg Traurig](#)
[Harvey & Binnall](#)
[Hogan Lovells](#)
[Holland & Knight](#)
[Hueston Hennigan](#)
[Irell & Manella](#)
[Javerbaum Wurgaft](#)
[Jomarron Lopez](#)
[Kendall Brill](#)
[King & Spalding](#)
[Kirkland & Ellis](#)

it rigged foreign exchange markets after a London judge told a client who suspects it was a victim of front-running by the bank's traders to provide more information to back up its disclosure requests.

[Read full article »](#)

Regulator Says Man Sold \$2.5M In Unregistered Securities

Massachusetts' securities watchdog has claimed a Bay State man sold more than \$2.5 million in unregistered securities to investors, seeking fines and disgorgement in an administrative complaint announced Monday.

[Complaint attached](#) | [Read full article »](#)

PUBLIC INTEGRITY

Roger Stone Prosecutors Seek Up To 9 Years In Lying Case

Federal prosecutors asked a D.C. court on Monday to hand down a sentence of up to nine years in prison to the self-described political "dirty trickster" Roger Stone, who was convicted last year of lying to Congress, obstructing a congressional investigation and witness tampering.

[1 document attached](#) | [Read full article »](#)

Michael Flynn's Sentencing Delayed Again

A D.C. federal judge on Monday postponed this month's sentencing of Michael Flynn, who's facing a charge of lying to the FBI, just weeks after the former Trump White House national security adviser asked to cancel the guilty plea he entered more than two years ago during special counsel Robert Mueller's probe into Russian interference in the 2016 presidential election.

[Read full article »](#)

LEGAL ETHICS

DOJ Says OC Atty Broke Bad, Distributed Meth And Guns

A California criminal defense and divorce attorney was arrested Monday and accused of selling firearms without a license as well as distributing methamphetamine, federal prosecutors said.

[Indictment attached](#) | [Read full article »](#)

IMMIGRATION

Indian National Can't Delay Visa Revocation, Judge Says

A Texas federal judge refused to force U.S. Citizenship and Immigration Services to delay the legal effect of its decision to revoke an Indian national's H-1B visa, saying the man hasn't shown he's likely to succeed in his suit.

[Order attached](#) | [Read full article »](#)

PEOPLE

Revolving-Door Roundup: King & Spalding, Morgan Lewis

The new year started off with high-profile former government hires for King & Spalding, Morgan Lewis and others, while law firms around the country augmented their white collar practice groups with talent leaving U.S. attorney's offices.

[Read full article »](#)

EXPERT ANALYSIS

Series

Judging A Book: Humetewa Reviews 'Guilty People'

In her new book, "Guilty People," Abbe Smith successfully conveys that seeing ourselves in people who commit crime may be the first step to exacting change in our justice system, says U.S. District Judge Diane

[Latham & Watkins](#)

[Littler Mendelson](#)

[Milbank LLP](#)

[Mishcon de Reya](#)

[Morgan Lewis](#)

[Nixon Peabody](#)

[One Essex Court](#)

[Orrick](#)

[Paul Weiss](#)

[Perkins Coie](#)

[Proskauer Rose](#)

[Reed Smith](#)

[Robinson Bradshaw](#)

[Ropes & Gray](#)

[Russ August & Kabat](#)

[Searby LLP](#)

[Sidley Austin](#)

[Simpson Thacher](#)

[Skadden](#)

[Stephoe & Johnson LLP](#)

[Sullivan & Cromwell](#)

[Susman Godfrey](#)

[White & Case](#)

[Wilkinson Walsh](#)

[Williams & Connolly](#)

[Wilson Elser](#)

COMPANIES

[Amazon.com Inc.](#)

[Anthem Inc.](#)

[Box Inc.](#)

[Brooklyn Law School](#)

[Clear Channel Outdoor Holdings, Inc.](#)

[CoreLogic Inc.](#)

[ECU Group PLC](#)

[Equifax Inc.](#)

[GlaxoSmithKline PLC](#)

[HSBC Holdings PLC](#)

[Instagram Inc.](#)

[LegalZoom.com Inc.](#)

[Life Partners Holdings Inc.](#)

[LinkedIn Corp.](#)

[Marriott International Inc.](#)

[National Association for the Advancement of Colored People](#)

[Nike Inc.](#)

[State Bar of California](#)

[T-Mobile US Inc.](#)

[Viacom Inc.](#)

[Walgreens Co.](#)

[Waste Management Inc.](#)

[Zeughauser Group LLC](#)

GOVERNMENT AGENCIES

Humetewa of the District of Arizona.

[Read full article »](#)

LEGAL INDUSTRY

Feature

The Skills Every Future Lawyer Needs

Lawyers aren't going to be robots, but they are going to be wired differently if they want to stay competitive. Knowing how to employ the latest technology will be just as important as sharpening the skills that make them most human, according to experts who spoke with Law360 about what the legal industry might look like in 2040.

[Read full article »](#)

Analysis

Irell & Manella Still Faces Uncertain Future After Strategy Shift

Irell & Manella LLP's shift to a litigation-focused strategy amid a wave of attorney departures may reflect a growing realization that smaller and midsize firms might be best positioned to succeed when they concentrate their strength on limited areas, but it doesn't erase bigger questions about the firm's future.

[Read full article »](#)

Wilson Elser Took Network Offline After Cyber 'Incident'

The defense litigation law firm Wilson Elser Moskowitz Edelman & Dicker LLP said Monday that it took its network offline after a recent cybersecurity "incident" that compromised the ability of its more than 800 attorneys to access their emails and files.

[Read full article »](#)

Davis Polk Looks To Trim Black Atty's Racial Bias Suit

Davis Polk & Wardwell LLP asked a New York federal court Monday to trim a racial bias and retaliation suit brought by a black ex-associate and to dismiss its partners from the suit, reiterating its rebuttal that the man was fired for poor performance.

[Read full article »](#)

King & Spalding Calls Atty's Bad Press Worries 'Academic'

King & Spalding LLP continues to trade barbs in court with a former associate who claims he was fired for raising ethical questions, telling a New York federal judge that David Joffe's "desperate" efforts to exclude discussion of negative media coverage from an upcoming trial are basically pointless.

[Read full article »](#)

Hotly Contested 11th Circ. Nominee Worth \$1M

An Alabama federal judge and Bradley Arant alum who is on the cusp of elevation to the Eleventh Circuit despite a wave of Democratic opposition has just over \$1 million in net worth, congressional records show.

[Read full article »](#)

DC Circ. Revamps Internal Policies To Fight Sex Harassment

The D.C. Circuit on Monday announced an overhaul of its internal dispute resolution process, becoming the latest federal appeals court to revise its policies to root out sexual harassment and other forms of misconduct.

[Read full article »](#)

Ill. Takes Steps Toward Regulated Online Legal Marketplaces

The Illinois Attorney Registration and Disciplinary Commission has proposed new ethics rules that would allow attorneys to use online legal marketplace platforms, though attorneys would be restricted to platforms that have

Attorney Registration and
Disciplinary Commission
Bureau of Citizenship and
Immigration Services
Central Intelligence Agency
Federal Bureau of Investigation
Federal Trade Commission
Judicial Conference of the United
States
Securities and Exchange
Commission
U.S. Attorney's Office
U.S. Department of Justice
U.S. District Court for the Central
District of California
U.S. District Court for the District of
Arizona
U.S. District Court for the District of
Maryland
U.S. District Court for the District of
Massachusetts
U.S. District Court for the Eastern
District of Texas
U.S. District Court for the Northern
District of California
U.S. District Court for the Northern
District of Georgia
U.S. District Court for the Southern
District of New York
U.S. Office of Personnel
Management
U.S. Senate
U.S. Supreme Court

registered with the commission.

[Read full article »](#)

Interview

15 Minutes With DFINITY's General Counsel

Sanam Saaber switched careers because she loved how the law enables professionals to think in a solution-oriented capacity. Here, the general counsel at DFINITY, which is trying to reverse Big Tech's monopolization of the internet, discusses building a legal team and the evolution of her industry.

[Read full article »](#)

JOBS

[Search full listings](#) or [advertise your job opening](#)

Labor & Employment Associate

Meltzer, Lippe, Goldstein & Breitstone, LLP
Mineola, New York

Not sure if your firm subscribes? Ask your librarian

We hope you found this message to be useful
However, if you'd rather not receive future emails of this sort,
[you may unsubscribe here](#)

Please DO NOT reply to this email. For customer support inquiries, please call +1-646-783-7100 or visit our [Contact Us](#) page

[Privacy Policy](#)

Law360 | Portfolio Media, Inc, 111 West 19th Street, 5th Floor, New York, NY 10011

From: [Zelinsky, Aaron \(USAMD\)](#)
To: [Murphy, Marcia \(USAMD\)](#); [Drumm, Bailey \(USAMD\)](#)
Subject: FW: 44.5
Date: Tuesday, February 11, 2020 4:04:14 PM

From: Heath, Brad (Reuters) <Brad.Heath@thomsonreuters.com>
Sent: Tuesday, February 11, 2020 3:06 PM
To: Zelinsky, Aaron (USAMD) <b6 per EOUSA >
Subject: 44.5

Hi Aaron – Just saw the notice of withdraw in Stone. I know there are restrictions, but are you able to say whether that was your decision?

Brad Heath
Reuters
202 527-9709
brad.heath@tr.com

This e-mail is for the sole use of the intended recipient and contains information that may be privileged and/or confidential. If you are not an intended recipient, please notify the sender by return e-mail and delete this e-mail and any attachments. Certain required legal entity disclosures can be accessed on our website:

<https://www.thomsonreuters.com/en/resources/disclosures.html>

From: [Zelinsky, Aaron \(USAMD\)](#)
To: [Murphy, Marcia \(USAMD\)](#); [Drumm, Bailey \(USAMD\)](#)
Subject: FW: CNBC Inquiry, Roger Stone
Date: Tuesday, February 11, 2020 4:04:02 PM

I'm just going to forward these to you. Thanks! Sorry!

From: Breuninger, Kevin (NBCUniversal) <Kevin.Breuninger@nbcuni.com>
Sent: Tuesday, February 11, 2020 3:03 PM
To: Zelinsky, Aaron (USAMD) <b6 per EOUSA [REDACTED] v>
Subject: CNBC Inquiry, Roger Stone

Hello Aaron,

This is Kevin Breuninger from CNBC.

I just saw on Roger Stone's docket that you have withdrawn from that case and "resigned effectively immediately." If you have a statement regarding your resignation, please send it as soon as possible. Email or call b6 per EOUSA [REDACTED] as soon as possible.

Best,
Kevin Breuninger
CNBC

From: [Zelinsky, Aaron \(USAMD\)](#)
To: [Drumm, Bailey \(USAMD\)](#); [Murphy, Marcia \(USAMD\)](#)
Subject: FW: Hi can you chat with me about this or give a comment?
Date: Tuesday, February 11, 2020 4:04:24 PM

From: John Kruzel <jkruzel@thehill.com>
Sent: Tuesday, February 11, 2020 3:06 PM
To: Zelinsky, Aaron (USAMD) <b6 per EOUSA [REDACTED]>
Subject: Hi can you chat with me about this or give a comment?

re: your motion to withdraw from Stone?

Thanks Aaron

John

--

John Kruzel
Legal Affairs Reporter
The Hill
b6 per EOUSA
[@johnkruzel](#)

From: [Murphy, Marcia \(USAMD\)](#)
To: [Zelinsky, Aaron \(USAMD\)](#)
Subject: FW: Interview request from CNN's Chris Cuomo
Date: Tuesday, February 11, 2020 5:01:54 PM

Aaron,

I have responded to all the inquiries you forwarded with something similar to the below statement. I tried to make it clear that I was responding on your behalf, so they wouldn't think the office was preventing you from making a statement. If you get any more, I will be happy to respond. Have a good evening. Hope you get some rest! Marcy

-----Original Message-----

From: Murphy, Marcia (USAMD)
Sent: Tuesday, February 11, 2020 4:45 PM
To: Dylan.Rose.Geerlings@turner.com
Subject: FW: Interview request from CNN's Chris Cuomo

Ms. Geerlings,

Aaron Zelinsky forwarded your inquiry to me. He asked me to pass along that he will not be making any statement beyond the Stone filing. Thanks!

Marcy Murphy
U.S. Attorney's Office
District of Maryland
410-209-4854

-----Original Message-----

From: Geerlings, Dylan Rose <Dylan.Rose.Geerlings@turner.com>
Sent: Tuesday, February 11, 2020 4:19 PM
To: Geerlings, Dylan Rose <Dylan.Rose.Geerlings@turner.com>
Subject: Interview request from CNN's Chris Cuomo

Mr. Zelinsky,

My name is Dylan Rose and I am a producer with Chris Cuomo on CNN. Reaching out to see if you might be interested in joining Chris for an interview. Given his legal background and steadfast commitment to measured and fact based coverage of this story Chris would be a natural fit.

Is this something you might consider? It would be an honor to have you and no anchor is better positioned to handle this story than Chris.

Please let me know. Happy to discuss with you on the phone or to connect you off the record with Chris.

Best,

Dylan Rose Geerlings
CUOMO PRIME TIME
b6 per EOUSA

From: [Zelinsky, Aaron \(USAMD\)](#)
To: [Drumm, Bailey \(USAMD\)](#); [Murphy, Marcia \(USAMD\)](#)
Subject: FW: Urgent questions --Stone case
Date: Tuesday, February 11, 2020 4:08:21 PM

From: Polantz, Katelyn <Katelyn.Polantz@turner.com>
Sent: Tuesday, February 11, 2020 3:20 PM
To: Zelinsky, Aaron (USAMD) <b6 per EOUSA >
Subject: Urgent questions --Stone case

Hi Aaron,
We saw your resignation from the Stone case and are reporting on DOJ's intended plan to change the recommended sentence for Roger Stone. We're trying to understand more about why this is happening/what's going on between the DC USAO and Main. Can you explain why you withdrew at this time?

I'm on my cell phone at b6 per EOUSA if you have a moment. I also use Signal.


Thank you,
Katelyn

--

Katelyn Polantz
Reporter – Justice/courts
CNN
Cell: b6 per EOUSA
Katelyn.polantz@cnn.com

From: [Zelinsky, Aaron \(USAMD\)](#)
To: [Jed, Adam \(USADC\)](#); [Kravis, Jonathan \(USADC\)](#); [Marando, Michael \(USADC\)](#)
Subject: Fwd: Activity in Case 1:19-cr-00018-ABJ USA v. STONE Sentencing Memorandum
Date: Tuesday, February 11, 2020 7:03:44 AM

b5, b6 per EOUSA



Sent from my iPhone

Begin forwarded message:

From: DCD_ECFNotice@dcd.uscourts.gov
Date: February 10, 2020 at 10:55:14 PM EST
To: DCD_ECFNotice@dcd.uscourts.gov
Subject: Activity in Case 1:19-cr-00018-ABJ USA v. STONE Sentencing Memorandum

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.

*****NOTE TO PUBLIC ACCESS USERS***** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.

U.S. District Court

District of Columbia

Notice of Electronic Filing

The following transaction was entered by Buschel, Robert on 2/10/2020 at 10:55 PM EDT and filed on 2/10/2020

Case Name: USA v. STONE
Case Number: [1:19-cr-00018-ABJ](#)
Filer: Dft No. 1 - ROGER JASON STONE, JR
Document Number: [280](#)

Docket Text:

[SENTENCING MEMORANDUM by ROGER JASON STONE, JR \(Attachments: # \(1\) Exhibit Letters of support\)\(Buschel, Robert\)](#)

1:19-cr-00018-ABJ-1 Notice has been electronically mailed to:

Aaron Simcha Jon Zelinsky [REDACTED] b6 per EOUSA

Adam C. Jed [REDACTED] b6 per EOUSA

Bruce S. Rogow [REDACTED] b6 per EOUSA

Grant J. Smith [REDACTED]

Jonathan Ian Kravis [REDACTED] b6 per EOUSA, CaseView.ECF@usdoj.gov,
[REDACTED] b6 per EOUSA USADC.CriminalDocket@USDOL.gov,
USADC.ECFfraud@USDOL.gov

L. Peter Farkas [REDACTED] b6 per EOUSA

Marc Erik Elias [REDACTED] DocketWDC@PerkinsCoie.com

Michael John Marando [REDACTED] b6 per EOUSA
[REDACTED] b6 per EOUSA, caseview.ecf@usdoj.gov,
usadc.criminaldocket@usdoj.gov, usadc.ecffraud@usdoj.gov

Robert C Buschel [REDACTED] b6 per EOUSA

Tara A. Campion [REDACTED]

Uzoma Nkwonta [REDACTED]

1:19-cr-00018-ABJ-1 Notice will be delivered by other means to::

The following document(s) are associated with this transaction:

Document description:Main Document
Original filename:suppressed
Electronic document Stamp:
[STAMP dcecfStamp_ID=973800458 [Date=2/10/2020] [FileNumber=6415359-0]
[143f5a3643eee59e31d9bf1025b6074435fa683d0307db304da14925ff2bf933bb660fe265bce268a22e67daf90ed25f3e3a8b99e4e3baeca52ef550d05c6440]]
Document description:Exhibit Letters of support
Original filename:suppressed
Electronic document Stamp:
[STAMP dcecfStamp_ID=973800458 [Date=2/10/2020] [FileNumber=6415359-1]
[43b02957938eefa17360edd0aae2261a808e64a3cd41efa208ff5a0e7f1e90ea75f817418bd1836aa6e3543233e05ddeb1cc1d8ff40e4b0d23dabe839156727d]]

From: [Zelinsky, Aaron \(USAMD\)](#)
To: [Drumm, Bailey \(USAMD\)](#); [Murphy, Marcia \(USAMD\)](#)
Subject: Fwd: CBS News Request
Date: Tuesday, February 11, 2020 10:19:41 PM

Sent from my iPhone

Begin forwarded message:

From: "Hymes, Clare E." <HymesC@cbsnews.com>
Date: February 11, 2020 at 10:17:53 PM EST
To: "b6 per EOUSA" <b6 per EOUSA>
Subject: CBS News Request

Hi Mr. Zelinsky,

My name is Clare Hymes and I cover the Department of Justice for CBS News. I was hoping to see if you would be willing to discuss your departure from the Roger Stone case today and the nature around the department's intervention. I'd be happy to talk to you on or off the record, even an on camera interview if you are up for it. Give me a call, text or signal at your convenience.

Respectfully,

Clare Hymes

CBS News

c b6 per EOUSA

o.202-457-4449

From: [Zelinsky, Aaron \(USAMD\)](#)
To: [Drumm, Bailey \(USAMD\)](#); [Murphy, Marcia \(USAMD\)](#)
Subject: Fwd: CNN / Situation Room: Aaron Zelinsky
Date: Tuesday, February 11, 2020 9:17:06 PM
Attachments: [image001.png](#)

Thanks!

Sent from my iPhone

Begin forwarded message:

From: "Giaino, Melissa" <Melissa.Giaino@cnn.com>
Date: February 11, 2020 at 9:02:04 PM EST
To: "b6 per EOUSA" <b6 per EOUSA>
Subject: CNN / Situation Room: Aaron Zelinsky

Dear Mr. Zelinsky,

On behalf of Wolf Blitzer, I'd like to invite you to join him on his program, The Situation Room, to discuss Rojer Stone sentencing and why you've decided to resign from the special assignment.

I understand that it's unlikely that you can grant an interview as long as you are with DOJ. Please keep this opportunity in mind, should matters change in the future. Wolf values real-news and is a straight-forward, thoughtful interview. This is a complicated story and you would be welcome to present the facts of the case in your own words.

I am based in Washington and would be happy to meet in person or speak by phone off-the-record. My direct contact is below.

Thank you in advance for any guidance you can offer. I realize you are likely inundated with press inquiries!

Kind Regards,
Melissa



MELISSA GIAIMO

Senior Editorial Producer *"The Situation Room with Wolf Blitzer"*

b6 per EOUSA cell

+1-202-351-4406 work

melissa.giaino@turner.com

From: [Zelinsky, Aaron \(USAMD\)](#)
To: [Marando, Michael \(USADC\)](#)
Subject: Fwd: Erik Prince
Date: Tuesday, February 11, 2020 11:26:51 PM

FYI, I don't plan to respond.

Sent from my iPhone

Begin forwarded message:

From: "Matthew L. Schwartz" <[REDACTED] b6 per EOUSA>
Date: February 11, 2020 at 3:12:04 PM EST
To: "Zelinsky, Aaron (USAMD)" <[REDACTED] b6 per EOUSA>
Subject: Erik Prince

Aaron –

I hope all is well. I couldn't help but notice the article just published in the Wall Street Journal, which suggests that the Department is on the verge of charging Mr. Prince. What's going on?

-mls

Matthew L. Schwartz
BOIES SCHILLER FLEXNER LLP
[REDACTED] b6 per EOUSA (Direct)
[REDACTED] (Mobile)

[DOJ Nears Decision on Whether to Charge Blackwater Founder Erik Prince](#)

Wall Street Journal

February 11, 2020

By Aruna Viswanatha and Julie Bykowicz

Prince could face charges stemming from his testimony to Congress about Seychelles meeting with Putin adviser and potential arms-trafficking violations

The Justice Department is in the late stages of deciding whether to charge businessman and Trump ally Erik Prince in an investigation into whether he lied to Congress in its Russia probe and violated U.S. export laws in his business dealings overseas, according to people familiar with the matter.

The investigation gathered steam in recent months with the cooperation of several witnesses, the people said. Potential charges against Mr. Prince, the founder of the defense contractor formerly known as Blackwater, include making false statements to Congress and violating the International Traffic in Arms Regulations, the people said.

Investigators have been examining Mr. Prince's 2017 testimony to Congress about his meeting with an adviser to Russia President Vladimir Putin, the people said. The episode was the subject of a criminal referral last April by the House Intelligence Committee, after special counsel Robert Mueller's 2019 report appeared to contradict Mr. Prince's testimony and described a different motivation for the trip than Mr. Prince had described to Congress.

The Justice Department told the committee in a Feb. 4 letter it would "refer" the request for an investigation "to the proper investigative agency"—though it was already looking at the matter, the people said.

The inquiry is also looking at Mr. Prince's attempts to supply aircraft outfitted with weaponry to other countries. He made a pitch to the United Arab Emirates for such a contract in 2017, according to people familiar with the matter. It couldn't be determined whether the pitch was successful.

A representative from the U.A.E. embassy in Washington didn't respond to a request for comment. The FBI is examining whether Mr. Prince obtained the appropriate export licenses in that business, the people said.

An attorney for Mr. Prince, Matthew Schwartz, said: "There is nothing new here," adding that Mr. Prince had "cooperated completely" in Mr. Mueller's investigation. "Erik Prince's House testimony has been public for more than a year," Mr. Schwartz added.

After Mr. Trump's 2016 election, Mr. Prince met in the Seychelles with Kirill Dmitriev, who runs Russia's sovereign-wealth fund and has described himself as a close adviser to Mr. Putin.

Speaking to lawmakers in November 2017, Mr. Prince described the meeting as a brief, unplanned encounter at a hotel bar while he was in the Indian Ocean archipelago on other business.

Mr. Prince said then that he went to the Seychelles to meet with potential customers from the U.A.E. "After the meeting, they mentioned a guy I should meet who was also in town to see them, a Kirill Dmitriev from Russia, who ran some sort of hedge fund," Mr. Prince said at the time.

But Mr. Mueller's team in its report described the episode unfolding differently.

A Lebanese-American businessman, George Nader, who pleaded guilty in Virginia federal court in January to charges including possessing child pornography, approached Mr. Prince about Mr. Dimitriev in early January 2017 and said the Russians were “looking to build a link with the incoming Trump Administration,” the report said.

Mr. Nader suggested that, in light of Mr. Prince’s relationship with transition team officials, the two could meet, the report said. Mr. Prince didn’t have a formal role with the Trump campaign but talked to campaign chairman Steve Bannon and sent him unsolicited policy papers, according to his congressional testimony.

Mr. Prince is the brother of Education Secretary Betsy DeVos.

Mr. Nader also faces a separate, unresolved federal criminal case that accuses him of conspiring to provide more than \$3.5 million in illegal campaign contributions to political entities supporting Hillary Clinton during the 2016 election. He has pleaded not guilty in that case.

Mr. Prince has a long history in the Middle East and did business with the United Arab Emirates before 2011, which he described in his congressional testimony as consulting on “how to make the country safer.”

One of Mr. Prince’s previous companies, Academi LLC, previously called Blackwater Worldwide, entered into a deferred prosecution agreement in 2012 to resolve criminal charges that it violated export laws by not obtaining appropriate licenses for services that included providing ammunition and body armor to Iraq and Afghanistan as well as military training to Canada. The firm had also submitted a proposal to provide security services to Sudan for which it didn’t get an export license, which was required in part because the proposal included technical data related to the intended work.

The company was renamed after Blackwater security guards were involved in a 2007 shooting in Baghdad that resulted in the death of more than a dozen unarmed Iraqi civilians. One of the guards, Nicholas Slatten, was sentenced to life in prison last year after he was convicted of murdering the driver of a stopped car.

Mr. Prince has faced questions before about his work brokering the sale of aircraft outfitted with military capabilities. In 2015, the law firm King & Spalding conducted an investigation for security firm Frontier Services Group, where Mr. Prince was chairman of the board, and prepared a report, which was reviewed by The Wall Street Journal. It found Mr. Prince might have tried to broker such a sale without the appropriate license.

Federal Bureau of Investigation Director Christopher Wray supervised the team of attorneys that made the finding, which was first reported by news website The Intercept in 2018.

—Dion Nissenbaum and Siobhan Hughes contributed to this article.

Write to Aruna Viswanatha at Aruna.Viswanatha@wsj.com and Julie Bykowicz at julie.bykowicz@wsj.com

The information contained in this electronic message is confidential information intended only for the use of the named recipient(s) and may contain information that, among other protections, is the subject of attorney-client privilege, attorney work product or exempt from disclosure under applicable law. If the reader of this electronic message is not the named recipient, or the employee or agent responsible to deliver it to the named recipient, you are hereby notified that any dissemination, distribution, copying or other use of this communication is strictly prohibited and no privilege is waived. If you have received this communication in error, please immediately notify the sender by replying to this electronic message and then deleting this electronic message from your computer. [v.1 08201831BSF]

From: [Marando, Michael \(USADC\)](#)
To: [Zelinsky, Aaron \(USAMD\)](#)
Subject: Fwd: Hi — can you confirm /comment on this development re: Roger Stone's recommended sentence?
Date: Tuesday, February 11, 2020 12:07:32 PM

Michael J. Marando
Assistant United States Attorney
(202) 252-7068

Begin forwarded message:

From: "Cooney, Joseph (USADC)" <b6 per EOUSA >
Date: February 11, 2020 at 12:07:11 PM EST
To: "Marando, Michael (USADC)" <b6 per EOUSA >, "Kravis, Jonathan (USADC)" <b6 per EOUSA >
Subject: RE: Hi — can you confirm /comment on this development re: Roger Stone's recommended sentence?

False.

From: Marando, Michael (USADC) <b6 per EOUSA >
Sent: Tuesday, February 11, 2020 12:06 PM
To: Cooney, Joseph (USADC) <b6 per EOUSA >; Kravis, Jonathan (USADC) <b6 per EOUSA >
Subject: Fwd: Hi — can you confirm /comment on this development re: Roger Stone's recommended sentence?

FYI

Michael J. Marando
Assistant United States Attorney
(202) 252-7068

Begin forwarded message:

From: John Kruzal <jkruzal@thehill.com>
Date: February 11, 2020 at 12:02:18 PM EST
Subject: Hi — can you confirm /comment on this development re: Roger Stone's recommended sentence?

Seeing this from a Fox News producer: The DOJ is changing its sentencing recommendation for Roger Stone, according to a Senior DOJ official.

“The Department finds seven to nine years extreme, excessive and grossly disproportionate,” the source said, adding the DOJ will clarify its position on sentencing later today

<https://twitter.com/JakeBGibson/status/1227271189346816000?s=20>

Can you confirm / comment?

--

John Kruzel
Legal Affairs Reporter
The Hill

b6 per EOUSA

[@johnkruzel](https://twitter.com/johnkruzel)

--

John Kruzel
Legal Affairs Reporter
The Hill

b6 per EOUSA

[@johnkruzel](https://twitter.com/johnkruzel)

From: [Kravis, Jonathan \(USADC\)](#)
To: [Zelinsky, Aaron \(USAMD\)](#); [Jed, Adam \(USADC\)](#); [Marando, Michael \(USADC\)](#)
Subject: Fwd: memo
Date: Monday, February 10, 2020 2:02:02 PM
Attachments: [b5 per EOUSA](#)
[AT100001.htm](#)

Sent from my iPhone

Begin forwarded message:

From: "Cooney, Joseph (USADC)" [b6 per EOUSA](#)
Date: February 10, 2020 at 1:55:00 PM EST
To: "Kravis, Jonathan (USADC)" [b6 per EOUSA](#)
Subject: memo

-
-

J.P. Cooney
Chief
Fraud & Public Corruption Section
U.S. Attorney's Office for the District of Columbia
555 Fourth Street, NW (Fifth Floor)
Washington, D.C. 20001
Office: 202-252-7281
Cell: [b6 per EOUSA](#)

From: [Wise, Leo \(USAMD\)](#)
To: [Zelinsky, Aaron \(USAMD\)](#)
Subject: (b) (5)
Date: Tuesday, February 11, 2020 3:04:15 PM
Attachments: b5 per EOUSA

Attached is a rough redlined draft. Also attached is the case b5 per EOUSA

b5 per EOUSA

b5 per EOUSA is also attached.

Leo J. Wise
Assistant United States Attorney
United States Attorney's Office for the District of Maryland
36 South Charles Street
Baltimore, MD 21201
(410) 209-4909 (desk)
b6 per EOUSA (cell)

From: [White, Neil \(USAMD\)](#)
To: [Zelinsky, Aaron \(USAMD\)](#)
Cc: [Nichols, Roann \(USAMD\)](#)
Subject: FW: Urgent Request
Date: Tuesday, February 11, 2020 12:59:57 PM
Attachments: [Zelinsky Withdrawal Motion Draft February 11.pdf](#)

b5 per EOUSA

Jon briefed me about this earlier today. I tried calling you and I am happy to chat this afternoon. I can be reached at **b6 per EOUSA**

Neil

From: Zelinsky, Aaron (USAMD) <**b6 per EOUSA**>
Sent: Tuesday, February 11, 2020 12:50 PM
To: White, Neil (USAMD) <**b6 per EOUSA**>; Sippel, John (USAMD) **b6 per EOUSA**
Subject: Urgent Request

Dear Neil and John,

Sorry to bug you with an urgent request.

Quick background:

b5 per EOUSA



Thanks,
Aaron

From: [Aaron Zelinsky](#)
To: [Zelinsky, Aaron \(USAMD\)](#)
Date: Monday, February 10, 2020 7:49:53 AM
Attachments: [Zelinsky Withdrawal Motion Draft 2.docx](#)

--

Aaron Zelinsky
b6 per EOUSA

From: [Zelinsky, Aaron \(USAMD\)](#)
To: [Cunningham, Michael \(USAMD\)](#)
Subject: Re: Breaking News: All 4 prosecutors in the Roger Stone case have now either resigned or withdrawn, and a new Justice Dept. filing made no sentencing recommendation.
Date: Tuesday, February 11, 2020 9:10:04 PM

Thanks! Just doing what any of us would have done in the same circumstance.

Sent from my iPhone

On Feb 11, 2020, at 7:08 PM, Cunningham, Michael (USAMD) <[b6 per EOUSA](#)> wrote:

Very proud of you!

P. Michael Cunningham
Assistant United States Attorney

Sent from my iPhone

Begin forwarded message:

From: The New York Times <nytdirect@nytimes.com>
Date: February 11, 2020 at 18:24:19 EST
To: "Cunningham, Michael (USAMD)" <[b6 per EOUSA](#)>
Subject: **Breaking News: All 4 prosecutors in the Roger Stone case have now either resigned or withdrawn, and a new Justice Dept. filing made no sentencing recommendation.**
Reply-To: The New York Times <nytdirect@nytimes.com>

[View in browser](#) | nytimes.com



BREAKING NEWS

All 4 prosecutors in the Roger Stone case have now either resigned or withdrawn, and a new Justice Dept. filing made no sentencing recommendation.

Tuesday, February 11, 2020 6:22 PM EST

Four prosecutors withdrew from the case of Mr. Stone, the longtime friend

of President Trump, after senior Justice Department officials intervened to recommend a more lenient sentence for Mr. Stone, who was convicted of impeding investigators in a bid to protect the president.

The highly unusual move prompted one of the government's key prosecutors to resign altogether. It came after federal prosecutors in Washington asked a judge late Monday to sentence Mr. Stone to seven to nine years in prison for trying to sabotage a congressional investigation that threatened Mr. Trump and the president criticized their recommendation on Twitter as "horrible and very unfair."

[Read the latest](#)

ADVERTISEMENT



You received this email because you signed up for [NYTimes.com](#)'s Breaking News Alerts. To stop receiving these emails, [unsubscribe](#) or [manage your email preferences](#).

[Subscribe to the Times](#) | [Get the NYT app](#)

[Change Your Email](#) | [Privacy Policy](#) | [Contact](#) | [Advertise](#)

The New York Times Company, 620 Eighth Avenue, New York, NY 10018

From: [Zelinsky, Aaron \(USAMD\)](#)
To: [Cooney, Joseph \(USADC\)](#)
Subject: Re: Filing
Date: Monday, February 10, 2020 7:04:26 PM

Thanks JP. **b6 per EOUSA**
b6 per EOUSA

Sent from my iPhone

On Feb 10, 2020, at 6:07 PM, Cooney, Joseph (USADC) <**b6 per EOUSA**> wrote:

Team:

I just let Jonathan know that you have the green light to file the pleading. **b6 per EOUSA**
b6 per EOUSA

J.P.

From: [Zelinsky, Aaron \(USAMD\)](#)
To: [Marando, Michael \(USADC\)](#); [Kravis, Jonathan \(USADC\)](#)
Subject: RE: Hi — can you confirm /comment on this development re: Roger Stone's recommended sentence?
Date: Tuesday, February 11, 2020 12:13:27 PM

<https://twitter.com/ShimonPro/status/1227277677599567873>

DOJ on Roger Stone: "This is not what had been briefed to the department," the official told CNN. "The department believes the recommendation is extreme and excessive and is grossly disproportionate to Stone's offenses."

From: Marando, Michael (USADC) <b6 per EOUSA [REDACTED]>
Sent: Tuesday, February 11, 2020 12:08 PM
To: Zelinsky, Aaron (USAMD) <b6 per EOUSA [REDACTED]>
Subject: Fwd: Hi — can you confirm /comment on this development re: Roger Stone's recommended sentence?

Michael J. Marando
Assistant United States Attorney
(202) 252-7068

Begin forwarded message:

From: "Cooney, Joseph (USADC)" <b6 per EOUSA [REDACTED]>
Date: February 11, 2020 at 12:07:11 PM EST
To: "Marando, Michael (USADC)" <b6 per EOUSA [REDACTED]>, "Kravis, Jonathan (USADC)" <b6 per EOUSA [REDACTED]>
Subject: RE: Hi — can you confirm /comment on this development re: Roger Stone's recommended sentence?

False.

From: Marando, Michael (USADC) <b6 per EOUSA [REDACTED]>
Sent: Tuesday, February 11, 2020 12:06 PM
To: Cooney, Joseph (USADC) <b6 per EOUSA [REDACTED]>; Kravis, Jonathan (USADC) <b6 per EOUSA [REDACTED]>
Subject: Fwd: Hi — can you confirm /comment on this development re: Roger Stone's recommended sentence?

FYI

Michael J. Marando
Assistant United States Attorney
(202) 252-7068

Begin forwarded message:

From: John Kruzel b6 per EOUSA
Date: February 11, 2020 at 12:02:18 PM EST
Subject: Hi — can you confirm /comment on this development
re: Roger Stone's recommended sentence?

Seeing this from a Fox News producer: The DOJ is changing its sentencing recommendation for Roger Stone, according to a Senior DOJ official.

“The Department finds seven to nine years extreme, excessive and grossly disproportionate,” the source said, adding the DOJ will clarify its position on sentencing later today

<https://twitter.com/JakeBGibson/status/1227271189346816000?s=20>

Can you confirm / comment?

--

John Kruzel
Legal Affairs Reporter
The Hill
b6 per EOUSA
[@johnkruzel](#)

--

John Kruzel
Legal Affairs Reporter
The Hill
b6 per EOUSA
[@johnkruzel](#)

From: [Zelinsky, Aaron \(USAMD\)](#)
To: [Metcalf, David \(USADC\)](#)
Subject: Re: I'm back in my office
Date: Monday, February 10, 2020 3:58:37 PM

I'm headed out now. Happy to talk by phone. **b6 per EOUSA**
b6 per EOUSA

Sent from my iPhone

On Feb 10, 2020, at 2:05 PM, Metcalf, David (USADC) <**b6 per EOUSA**> wrote:

If you actually want to talk, let me know. **b6 per EOUSA**

David Metcalf
b6 per EOUSA

From: [Zelinsky, Aaron \(USAMD\)](#)
To: [Metcalf, David \(USADC\)](#)
Subject: RE: I'm back in my office
Date: Monday, February 10, 2020 2:07:50 PM

b6 per EOUSA

What would you like to discuss? I am a bit busy because of Stone sentencing memo (as I'm sure you're aware) and I

From: Metcalf, David (USADC) <b6 per EOUSA>
Sent: Monday, February 10, 2020 2:06 PM
To: Zelinsky, Aaron (USAMD) <b6 per EOUSA>
Subject: I'm back in my office

If you actually want to talk, let me know. b6 per EOUSA

David Metcalf
b6 per EOUSA

From: [Zelinsky, Aaron \(USAMD\)](#)
To: [Lenzner, Jonathan \(USAMD\)](#)
Subject: Re: Looks like they are blinking
Date: Monday, February 10, 2020 2:11:32 PM

b5 per EOUSA

Sent from my iPhone

On Feb 10, 2020, at 2:08 PM, Lenzner, Jonathan (USAMD) [b6 per EOUSA](#) wrote:

b5 per EOUSA

Sent from my iPhone

On Feb 10, 2020, at 2:04 PM, Zelinsky, Aaron (USAMD) [b6 per EOUSA](#) wrote:

b5 per EOUSA

From: [Zelinsky, Aaron \(USAMD\)](#)
To: [Stuart Sears](#)
Subject: Re: Panel Discussion on April 2, 2020 at the Cosmos Club, Washington DC
Date: Tuesday, February 11, 2020 10:36:59 PM

Hi Stuart,

b5 per EOUSA [REDACTED] Thanks for the kind invitation.

Be well,
Aaron

Sent from my iPhone

On Feb 3, 2020, at 2:32 PM, Stuart Sears **b6 per EOUSA** [REDACTED] wrote:

Aaron,

b6 per EOUSA [REDACTED]

Stuart

Stuart A. Sears
SCHERTLER & ONORATO, LLP
b6 per EOUSA [REDACTED]

From: Zelinsky, Aaron (USAMD) **b6 per EOUSA** [REDACTED]
Sent: Monday, February 3, 2020 1:53 PM
To: Stuart Sears **b6 per EOUSA** [REDACTED]
Subject: RE: Panel Discussion on April 2, 2020 at the Cosmos Club, Washington DC

Hi Stuart,

No problem. **b5 per EOUSA** [REDACTED]
[REDACTED]

Best,
Aaron

From: Stuart Sears <**b6 per EOUSA** [REDACTED]>
Sent: Monday, February 3, 2020 12:57 PM
To: Zelinsky, Aaron (USAMD) <**b6 per EOUSA** [REDACTED]>
Subject: RE: Panel Discussion on April 2, 2020 at the Cosmos Club, Washington DC

From: [Budlow, Paul \(USAMD\)](#)
To: [Zelinsky, Aaron \(USAMD\)](#)
Subject: RE: Presentation Skills for Training and Trial, March 31 - April 2
Date: Monday, February 10, 2020 9:01:24 AM

Thanks.

Paul E. Budlow | Assistant U.S. Attorney | District of Maryland (Northern Division) | 36 South Charles Street, 4th Floor | Baltimore, Maryland 21201
410-209-4800 (main office) | **b6 per EOUSA** (direct) | 410-962-3091 (Fax)

From: Zelinsky, Aaron (USAMD) **b6 per EOUSA** >
Sent: Friday, February 7, 2020 11:06 AM
To: Budlow, Paul (USAMD) **b6 per EOUSA**
Subject: RE: Presentation Skills for Training and Trial, March 31 - April 2

b6 per EOUSA

From: Budlow, Paul (USAMD) <**b6 per EOUSA**>
Sent: Friday, February 7, 2020 11:03 AM
To: Zelinsky, Aaron (USAMD) **b6 per EOUSA**
Subject: RE: Presentation Skills for Training and Trial, March 31 - April 2

The DC course is here:

Liberty Square Building, Room 7222 (450 5th Street NW, Washington, DC 20530)

Paul E. Budlow | Assistant U.S. Attorney | District of Maryland (Northern Division) | 36 South Charles Street, 4th Floor | Baltimore, Maryland 21201
410-209-4800 (main office) | **b6 per EOUSA** | 410-962-3091 (Fax)

From: **b6 per EOUSA** (USANAC) [Contractor] **b6 per EOUSA**
Sent: Friday, February 7, 2020 10:34 AM
To: Duncan, Elizabeth N. (TAX) **b6 per EOUSA**; Brown, Jacqueline (ENRD) **b6 per EOUSA**; Eaton, Shana (NSD) **b6 per EOUSA**; Hayes, Kelly (USAMD) **b6 per EOUSA**; Funsten, Allegra (NSD) <**b6 per EOUSA**>; Daly, Michael (NSD) **b6 per EOUSA** (USAEO) [Contractor] **b6 per EOUSA**; Kent, Rodney (NSD) <**b6 per EOUSA**>; Snead, Jacqueline Coleman (CIV) **b6 per EOUSA**; Deeley, Hunter (NSD) **b6 per EOUSA**; Harrison, Natalie G. (ENRD) **b6 per EOUSA**; Lott, Melissa K. (CIV) **b6 per EOUSA**; Melada, Natalie (ATR) **b6 per EOUSA**; Bailey, Gregory P. (TAX) <**b6 per EOUSA**>; Connolly, Kathleen A. (CIV) <**b6 per EOUSA**>; Heminger, Justin (ENRD) <**b6 per EOUSA**>; Becer, Christine M. (CIV) <**b6 per EOUSA**>; Zilioli, Erica (ENRD) <**b6 per EOUSA**>; Knudsen, Helen (ATR)

From: [Zelinsky, Aaron \(USAMD\)](#)
To: [Kravis, Jonathan \(USADC\)](#)
Subject: RE: Send me your notice?
Date: Tuesday, February 11, 2020 2:59:35 PM
Attachments: [Zelinsky Withdrawal Motion Draft February 11.docx](#)

From: Kravis, Jonathan (USADC) <b6 per EOUSA [REDACTED]>
Sent: Tuesday, February 11, 2020 2:55 PM
To: Zelinsky, Aaron (USAMD) <b6 per EOUSA [REDACTED]>
Subject: Send me your notice?

Jonathan Kravis
Deputy Chief, Fraud and Public Corruption Section
U.S. Attorney's Office for the District of Columbia
202-252-6886

From: [Zelinsky, Aaron \(USAMD\)](#)
To: [Kravis, Jonathan \(USADC\)](#)
Subject: RE: Send me your notice?
Date: Tuesday, February 11, 2020 2:55:18 PM
Attachments: [Zelinsky Withdrawal Motion Draft February 11.docx](#)

b5 per EOUSA

JP approved this yesterday. If you see any typos, let me know!

From: Kravis, Jonathan (USADC) <b6 per EOUSA>
Sent: Tuesday, February 11, 2020 2:55 PM
To: Zelinsky, Aaron (USAMD) <b6 per EOUSA>
Subject: Send me your notice?

Jonathan Kravis
Deputy Chief, Fraud and Public Corruption Section
U.S. Attorney's Office for the District of Columbia
202-252-6886

From: [Zelinsky, Aaron \(USAMD\)](#)
To: [Kravis, Jonathan \(USADC\)](#)
Subject: Re: Stone sentencing memo
Date: Monday, February 10, 2020 4:30:12 PM

Never mind. Looks like thirteen in all news stories.

Sent from my iPhone

On Feb 10, 2020, at 4:22 PM, Kravis, Jonathan (USADC) <[b6 per EOUSA](#)> wrote:

Final draft attached. Let me know when we have the ok to file.

Thanks,
Jonathan

Jonathan Kravis
Deputy Chief, Fraud and Public Corruption Section
U.S. Attorney's Office for the District of Columbia
202-252-6886

<stone sentencing memo 2-10-20.docx>

From: [Zelinsky, Aaron \(USAMD\)](#)
To: [Kravis, Jonathan \(USADC\)](#)
Subject: Re: Stone sentencing memo
Date: Monday, February 10, 2020 4:28:38 PM

This says [REDACTED] got thirteen months. I thought it was 14?

Sent from my iPhone

On Feb 10, 2020, at 4:22 PM, Kravis, Jonathan (USADC) <[REDACTED]> wrote:

Final draft attached. Let me know when we have the ok to file.

Thanks,
Jonathan

Jonathan Kravis
Deputy Chief, Fraud and Public Corruption Section
U.S. Attorney's Office for the District of Columbia
202-252-6886

<stone sentencing memo 2-10-20.docx>

From: [Zelinsky, Aaron \(USAMD\)](#)
To: [Marando, Michael \(USADC\)](#)
Subject: Re: U.S. v. Roger Stone, 19-cr-18 (ABJ)
Date: Monday, February 10, 2020 4:32:08 PM
Attachments: [image001.png](#)

Thanks for doing this.

Sent from my iPhone

> On Feb 10, 2020, at 4:22 PM, Marando, Michael (USADC) <[b6 per EOUSA](#)> wrote:
>
> Counsel, the attached documents were filed with the Court under seal today.
>
> -Michael
>
> [cid:image001.png@01D5E02D.ED11E220]
>
> Michael J. Marando
> Assistant United States Attorney
> Fraud and Public Corruption Section
> U.S. Attorney's Office for the District of Columbia
> 555 4th Street NW, Room 5241
> Washington, D.C. 20530
> 202-252-7068
>
> <19-18SealedAttachmentA AZ redactions.pdf>
> <19-18SealedAttachmentA AZ redactions_Redacted.pdf>
> <19-18SealedOrder_Proposed AZ Redactions.pdf>
> <19-18SealedOrder_Proposed AZ Redactions_Redacted.pdf>
> <Joint Submission re Redactions.pdf>
> <image001.png>

From: [Zelinsky, Aaron \(USAMD\)](#)
To: [White, Neil \(USAMD\)](#)
Cc: [Nichols, Roann \(USAMD\)](#)
Subject: RE: Urgent Request
Date: Tuesday, February 11, 2020 1:13:51 PM

Just tried you again. Thanks,
Aaron

From: White, Neil (USAMD) <b6 per EOUSA [REDACTED]>
Sent: Tuesday, February 11, 2020 1:00 PM
To: Zelinsky, Aaron (USAMD) <b6 per EOUSA [REDACTED]>
Cc: Nichols, Roann (USAMD) <b6 per EOUSA [REDACTED]>
Subject: FW: Urgent Request

b6 per EOUSA [REDACTED]

Jon briefed me about this earlier today. I tried calling you and I am happy to chat this afternoon. I can be reached at b6 per EOUSA [REDACTED]

Neil

From: Zelinsky, Aaron (USAMD) <b6 per EOUSA [REDACTED]>
Sent: Tuesday, February 11, 2020 12:50 PM
To: White, Neil (USAMD) <b6 per EOUSA [REDACTED]>; Sippel, John (USAMD) <b6 per EOUSA [REDACTED]>
Subject: Urgent Request

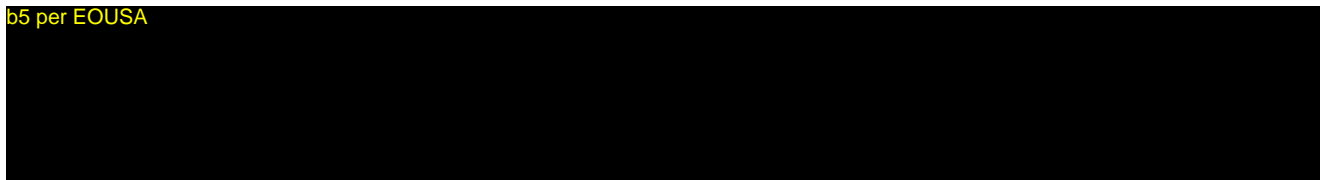
Dear Neil and John,

Sorry to bug you with an urgent request.

Quick background:

b5 per EOUSA [REDACTED]

b5 per EOUSA



Thanks,
Aaron

From: [Zelinsky, Aaron \(USAMD\)](#)
To: [White, Neil \(USAMD\)](#)
Cc: [Nichols, Roann \(USAMD\)](#)
Subject: RE: Urgent Request
Date: Tuesday, February 11, 2020 1:04:34 PM

Neil – on phone with DC now. Will call in a moment.

From: White, Neil (USAMD) <b6 per EOUSA >
Sent: Tuesday, February 11, 2020 1:00 PM
To: Zelinsky, Aaron (USAMD) <b6 per EOUSA >
Cc: Nichols, Roann (USAMD) <b6 per EOUSA >
Subject: FW: Urgent Request

b6 per EOUSA

Jon briefed me about this earlier today. I tried calling you and I am happy to chat this afternoon. I can be reached at b6 per EOUSA .

Neil

From: Zelinsky, Aaron (USAMD) <b6 per EOUSA >
Sent: Tuesday, February 11, 2020 12:50 PM
To: White, Neil (USAMD) <b6 per EOUSA >; Sippel, John (USAMD) <b6 per EOUSA >
Subject: Urgent Request

Dear Neil and John,

Sorry to bug you with an urgent request.

Quick background:

b5 per EOUSA



b5 per EOUSA

Thanks,
Aaron

From: [Zelinsky, Aaron \(USAMD\)](#)
To: [Lenzner, Jonathan \(USAMD\)](#)
Subject: Re: Withdrawal
Date: Tuesday, February 11, 2020 10:21:32 PM

Thanks. My MOU is certainly only for the Stone case.

b5 per EOUSA

b5 per EOUSA

Sent from my iPhone

On Feb 11, 2020, at 10:03 PM, Lenzner, Jonathan (USAMD) <[b6 per EOUSA](#)> wrote:

Aaron:

b5 per EOUSA

Jon

Sent from my iPhone

On Feb 11, 2020, at 3:02 PM, Zelinsky, Aaron (USAMD)

<[b6 per EOUSA](#)> wrote:

Dear Roann and Neil,

As discussed, I have filed the withdrawal motion and emailed the public corruption chief JP Cooney. I withdrew just after I sent the email below notifying him. As we have discussed, I do not believe that he has the power to compel me to stay in the case. There are currently three attorneys on the docket for the United States. In addition, JP has indicated that Main Justice will file a motion of somekind in the case later today and we will not have the opportunity to do this.

Thanks for all your help.

Best,
Aaron

From: Cooney, Joseph (USADC) <b6 per EOUSA >
Sent: Tuesday, February 11, 2020 3:00 PM
To: Zelinsky, Aaron (USAMD) <b6 per EOUSA >
Cc: Kravis, Jonathan (USADC) <b6 per EOUSA >; Marando, Michael (USADC) <b6 per EOUSA >; Jed, Adam (USADC) <b6 per EOUSA >
Subject: RE: Withdrawal

I am not approving of you withdrawing from this case right now.

From: Zelinsky, Aaron (USAMD) <b6 per EOUSA >
Sent: Tuesday, February 11, 2020 2:59 PM
To: Cooney, Joseph (USADC) <b6 per EOUSA >
Cc: Kravis, Jonathan (USADC) <b6 per EOUSA >; Marando, Michael (USADC) <b6 per EOUSA >; Jed, Adam (USADC) <b6 per EOUSA >
Subject: Withdrawal

Dear JP,

Pursuant to our conversation yesterday and your approval of this filing yesterday, I am now filing the attached withdrawal from the Stone case and resigning as a SAUSA in DC.

Best,
Aaron

From: [Kravis, Jonathan \(USADC\)](#)
To: [Cooney, Joseph \(USADC\)](#); [Crabb, John D. \(USADC\)](#); [Evangelista, Alessio \(USADC\)](#)
Cc: [Jed, Adam \(USADC\)](#); [Marando, Michael \(USADC\)](#); [Zelinsky, Aaron \(USAMD\)](#)
Subject: Stone sentencing memo
Date: Monday, February 10, 2020 4:22:23 PM
Attachments: [stone sentencing memo 2-10-20.docx](#)

Final draft attached. Let me know when we have the ok to file.

Thanks,
Jonathan

Jonathan Kravis
Deputy Chief, Fraud and Public Corruption Section
U.S. Attorney's Office for the District of Columbia
202-252-6886

From: [Jed, Adam \(USADC\)](#)
To: [Zelinsky, Aaron \(USAMD\)](#); [Kravis, Jonathan \(USADC\)](#); [Marando, Michael \(USADC\)](#)
Subject: Stone's sentencing memo
Date: Tuesday, February 11, 2020 8:32:48 AM

b5 per EOUSA

Sent from my iPhone

From: [Marando, Michael \(USADOC\)](#)
To: [Robert Busche](#); [Grant Smith](#); [Bruce Rogow](#); [Tara Campbell](#)
Cc: [Kris S. Jonathan \(USADOC\)](#); [Zeljko Aaron \(USADOC\)](#); [Jed Adam \(USADOC\)](#)
Subject: U.S. v. Roger Stone: 19-cr-0018
Date: Monday, February 10, 2020 4:22:08 PM
Attachments: [image001.png](#)
[19-18SealedAttachmentA AZ redactions.pdf](#)
[19-18SealedAttachmentA AZ redactions_Redacted.pdf](#)
[19-18SealedOrder_Proposed AZ redactions.pdf](#)
[19-18SealedOrder_Proposed AZ redactions_Redacted.pdf](#)
[Joint Submissions re Redactions.pdf](#)

Counsel: the attached documents were filed with the Court under seal today.

-Michael

Partially Sealed Documents
19-cr-0018-ARJ-USA v STONE

CAT B

U.S. District Court
District of Columbia

Notice of Electronic Filing

The following transaction was entered by Marando, Michael on 2/10/2020 at 4:17 PM EDT and filed on 2/10/2020:

Case Name: USA v STONE
Case Number: [19-cr-0018-ARJ](#)
Filer: USA
Document Number: [23](#)

Docket Text:

SEALED DOCUMENT (Notice of Filing of Joint Proposed Redactions) filed by USA as to ROGER JASON STONE, JR (This document is SEALED and only available to authorized persons.) (Attachments: # (1) Exhibit Sealed Order (partially redacted), # (2) Exhibit Sealed Attachment (partially redacted), # (3) Exhibit Sealed Order (fully redacted), # (4) Exhibit Sealed Attachment (fully redacted))(Marando, Michael)

1:19-cr-00018-ARJ-1 Notice has been electronically mailed to:

1:19-cr-00018-ARJ-1 Notice will be delivered by other means to:

The following document(s) are associated with this transaction:

Document description: Main Document

Original filename: suppressed

Electronic document Stamp:

{STAMP doc:Stamp_ID=973800458 [Date=2/10/2020] [FileNumber=6414311-0] [e72c3be4eb97f3ec97307c3668a0406872660d0c204097a29-00340f0bca5d09469621c3eb70256594072b660b057739f0dec21a87091690268363f35ten]}

Document description: Exhibit Sealed Order (partially redacted)

Original filename: suppressed

Electronic document Stamp:

{STAMP doc:Stamp_ID=837800458 [Date=2/10/2020] [FileNumber=6414311-1]}

Michael J. Marando
Assistant United States Attorney
Fraud and Public Corruption Section
U.S. Attorney's Office for the District of Columbia
555 4th Street NW Room 5241
Washington D.C. 20530
202-252-7068

From: [Steven Brill](#)
To: [Jed, Adam \(USADC\)](#); [Kravis, Jonathan \(USADC\)](#); [Marando, Michael \(USADC\)](#); [Zelinsky, Aaron \(USAMD\)](#)
Cc: [Rachel Brill](#) b6 per EOUSA
Subject: USA v. Roger Stone
Date: Tuesday, February 11, 2020 3:41:41 PM
Attachments: [image001.png](#)
[image002.png](#)

Dear Assistant US Attorneys –

I am a criminal defense attorney who has been practicing over 25 years in New York City. The bulk of my practice is located in the SDNY and EDNY. Like me, you are on the front lines of the criminal justice system and play an integral part in how the system operates and in maintaining the integrity and respect it requires. I am writing to you as a colleague and as a fellow citizen.

The chain of events surrounding the government’s position regarding Roger Stone’s sentencing presents an appearance of such impropriety that has shaken me to my core. If news reports are true, the government submitted a memorandum to the Court recommending that the Court sentence Mr. Stone to 87-108 months – which may be a guideline sentence. Then, hours after the President tweeted his displeasure with that position, the DOJ announced it would withdraw that sentencing recommendation as "extreme, excessive, and grossly disproportionate."

This appearance of blatant interference by the President cannot be starker. It is hard to view this chain of events as anything other than a corrupt President imposing his own personal and political whims on DOJ’s sentencing position when it comes to Mr. Stone. With this dramatic shift in position, you have sent a message that the DOJ is not only corruptible, but that the rule of law is only as strong as the desires of the White House.

As a lawyer, I deeply fear the perilous effect that these statements and actions have on the rule of law – a profession to which I dedicated my professional life. As a citizen, I fear for the direction of my Country that I love dearly.

However, you still have great power. You can thwart this downward and dangerous spiral. You can stand in the way of improper interference from the White House. You can speak out against improper internal pressure forcing you to do what you know may not legally or morally right. I beg you to do so for the sake of our profession, our rule of law, and our Country.

Thank you for reading.




Steven Brill, Partner

115 Broadway, Suite 1704

New York, New York 10006

P: 212-566-1000 | Direct Dial: b6 per EOUSA

www.sbcriminallawyers.com

Notice: This communication, including attachments, may contain information that is confidential and protected by the attorney/client or other privileges. It constitutes non-public information intended to be conveyed only to the designated recipient(s). If the reader or recipient of this communication is not the intended recipient, an employee or agent of the intended recipient who is responsible for delivering it to the intended recipient, or you believe that you have received this communication in error, please notify the sender immediately by return e-mail and promptly delete this e-mail, including attachments without reading or saving them in any manner. The unauthorized use, dissemination, distribution, or reproduction of this e-mail, including attachments, is prohibited and may be unlawful. Receipt by anyone other than the intended recipient(s) is not a waiver of any attorney/client or other privilege.

From: [Zelinsky, Aaron \(USAMD\)](#)
To: [Jed, Adam \(USADC\)](#); [Kravis, Jonathan \(USADC\)](#)
Subject: Withdrawal
Date: Monday, February 10, 2020 7:52:25 AM
Attachments: [Zelinsky Withdrawal Motion Draft 2.docx](#)
[ATT00001.htm](#)

A much slimmer version - let me know what you think.

Aaron

Sent from my iPhone

Begin forwarded message:

From: Aaron Zelinsky <[b6 per EOUSA](#)>
Date: February 10, 2020 at 7:46:58 AM EST
To: "Zelinsky, Aaron (USAMD)" <[b6 per EOUSA](#)>

--

Aaron Zelinsky
[b6 per EOUSA](#)

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

v.

ROGER J. STONE, JR.,

Defendant.

Criminal No. 19-cr-18-ABJ

NOTICE OF WITHDRAWAL

Pursuant to Local Rule of Criminal Procedure 44.5(e), please notice the withdrawal of Aaron S.J. Zelinsky as counsel for the Government in the above-captioned matter.

Respectfully submitted,

(b) (6) per EOUSA

Aaron S.J. Zelinsky
Special Assistant United States Attorney*
District of Columbia
555 4th Street NW
Washington, D.C. 20530

February 11, 2020

* The Court is advised that the undersigned attorney has resigned effective immediately after this filing as a Special Assistant United States Attorney for the District of Columbia.

From: [Zelinsky, Aaron \(USAMD\)](#)
To: [Marando, Michael \(USADC\)](#)
Subject: Zelinsky Withdrawal Motion Draft Final.docx
Date: Monday, February 10, 2020 1:25:45 PM
Attachments: [Zelinsky Withdrawal Motion Draft Final.docx](#)

From: DCD_ECFNotice@dcd.uscourts.gov
To: DCD_ECFNotice@dcd.uscourts.gov
Bcc: [Zelinsky, Aaron \(USAMD\)](mailto:Zelinsky, Aaron (USAMD))
Subject: Activity in Case 1:19-cr-00018-ABJ USA v. STONE Notice of Withdrawal of Appearance by Assistant U.S. Attorney
Date: Tuesday, February 11, 2020 5:32:18 PM

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.

*****NOTE TO PUBLIC ACCESS USERS*** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.**

U.S. District Court

District of Columbia

Notice of Electronic Filing

The following transaction was entered by Marando, Michael on 2/11/2020 at 5:30 PM EDT and filed on 2/11/2020

Case Name: USA v. STONE
Case Number: [1:19-cr-00018-ABJ](#)
Filer: USA
Document Number: [287](#)

Docket Text:

NOTICE OF WITHDRAWAL OF APPEARANCE by USA as to ROGER JASON STONE, JR (Marando, Michael)

1:19-cr-00018-ABJ-1 Notice has been electronically mailed to:

Aaron Simcha Jon Zelinsky

b6 per EOUSA

Bruce S. Rogow

b6 per EOUSA

Grant J. Smith

b6 per EOUSA

John Crabb , Jr

b6 per EOUSA

USADC.CriminalDocket@usdoj.gov, usadc.ecffraud@usdoj.gov, usadc.ecfnatsec@usdoj.gov

L. Peter Farkas

b6 per EOUSA

Marc Erik Elias

b6 per EOUSA

DocketWDC@PerkinsCoie.com

Michael John Marando

b6 per EOUSA

b6 per EOUSA

caseview.ecf@usdoj.gov, usadc.criminaldocket@usdoj.gov,

usadc.ecffraud@usdoj.gov

Robert C Buschel [REDACTED] BG.J6R6@case.prolific.com

Tara A. Campion [REDACTED]

Uzoma Nkwonta [REDACTED]

1:19-cr-00018-ABJ-1 Notice will be delivered by other means to::

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:suppressed

Electronic document Stamp:

[STAMP dcecfStamp_ID=973800458 [Date=2/11/2020] [FileNumber=6417448-0]
[497a027c1329258b486b197ee55efdbbc5c2b35a7cb5ecea62d3e39f406d2b56e
bc17bdfc3321af88377762b9e5067130e43746479973213c26f0fd8e5b8d]]

From: DCD_ECFNotice@dcd.uscourts.gov
To: DCD_ECFNotice@dcd.uscourts.gov
Bcc: [Zelinsky, Aaron \(USAMD\)](mailto:Zelinsky, Aaron (USAMD))
Subject: Activity in Case 1:19-cr-00018-ABJ USA v. STONE Notice of Withdrawal of Appearance by Assistant U.S. Attorney
Date: Tuesday, February 11, 2020 3:55:54 PM

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.

*****NOTE TO PUBLIC ACCESS USERS*** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.**

U.S. District Court

District of Columbia

Notice of Electronic Filing

The following transaction was entered by Kravis, Jonathan on 2/11/2020 at 3:54 PM EDT and filed on 2/11/2020

Case Name: USA v. STONE
Case Number: [1:19-cr-00018-ABJ](#)
Filer: USA
Document Number: [283](#)

Docket Text:

NOTICE OF WITHDRAWAL OF APPEARANCE by USA as to ROGER JASON STONE, JR (Kravis, Jonathan)

1:19-cr-00018-ABJ-1 Notice has been electronically mailed to:

Aaron Simcha Jon Zelinsky **b6 per EOUSA**

Adam C. Jed **b6 per EOUSA**

Bruce S. Rogow **b6 per EOUSA**

Grant J. Smith **b6 per EOUSA**

Jonathan Ian Kravis **b6 per EOUSA** CaseView.ECF@usdoj.gov,
b6 per EOUSA USADC.CriminalDocket@USDOJ.gov,
USADC.ECFFraud@USDOJ.gov

L. Peter Farkas **b6 per EOUSA**

Marc Erik Elias **b6 per EOUSA** DocketWDC@PerkinsCoie.com

Michael John Marando

b6 per EOUSA

b6 per EOUSA

, caseview.ecf@usdoj.gov, usadc.criminaldocket@usdoj.gov,
usadc.ecffraud@usdoj.gov

Robert C Buschel

b6 per EOUSA

Tara A. Champion

Uzoma Nkwonta

1:19-cr-00018-ABJ-1 Notice will be delivered by other means to::

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:suppressed

Electronic document Stamp:

[STAMP dcecfStamp_ID=973800458 [Date=2/11/2020] [FileNumber=6417086-0]
[7443c06f032d8b24a380086bbfc836148d02b8d74eed6d6483d5dd8c9dca244c100c
57b7351c4861e50cbd9fcec864589bfa2ec9b2aac63a2e4f3fe41d0c86ce]]

From: [Zelinsky, Aaron \(USAMD\)](#)
To: [Cooney, Joseph \(USADC\)](#)
Cc: [Kravis, Jonathan \(USADC\)](#); [Marando, Michael \(USADC\)](#); [Jed, Adam \(USADC\)](#)
Subject: Withdrawal
Date: Tuesday, February 11, 2020 2:59:23 PM
Attachments: [Zelinsky Withdrawal Final Signed FINAL.pdf](#)

Dear JP,

Pursuant to our conversation yesterday and your approval of this filing yesterday, I am now filing the attached withdrawal from the Stone case and resigning as a SAUSA in DC.

Best,
Aaron

From: [Zelinsky, Aaron \(USAMD\)](#)
To: [Kravis, Jonathan \(USADC\)](#); [Marando, Michael \(USADC\)](#); [Jed, Adam \(USADC\)](#)
Subject: FW: Corrupt Whores >> Jonathan Kravis+Michael Marando+Timothy Shea+Adam Jed+Aaron Zelinsky << Are Pure FuckingEvil
Date: Tuesday, February 11, 2020 9:50:03 AM

I'll draft a response. Good news- we know the U.S. Attorney won't get this threat because he doesn't use email.

Aaron

From: b6 per EOUSA
Sent: Tuesday, February 11, 2020 9:14 AM
To: b6 per EOUSA; Marando, Michael (USADC) <b6 per EOUSA>; Shea, Timothy (OAG) <b6 per EOUSA>; Jed, Adam (USADC) <b6 per EOUSA>; Zelinsky, Aaron (USAMD) <b6 per EOUSA>
Subject: Corrupt Whores >> Jonathan Kravis+Michael Marando+Timothy Shea+Adam Jed+Aaron Zelinsky << Are Pure FuckingEvil

Timothy,

7 to 9 years for Rodger Stone?

The entire country knows this is partisan non-sense yet you heartless evil cunts continue.
FUCK YOU & YOUR FAMILIES.

Do you whores ever ask yourselves: Am I making the world a better place? The answer is you are making it much worse.

When did each of you lose all moral grounding to become cold-heartless whores?

All of you "attorneys" are nothing more than COCKROACHES.

Stage 4 cancer is what you and your families deserve.

b6 per
EOUSA

From: [Crabb, John D. \(USADC\)](#)
To: [Shea, Timothy \(USADC\)](#); [Evangelista, Alessio \(USADC\)](#); [Metcalf, David \(USADC\)](#)
Subject: Filed Stone Amended Sentencing Memo
Date: Tuesday, February 11, 2020 4:46:22 PM
Attachments: [Filed Stone Amended Sentencing Memo.pdf](#)

I just filed this.

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA

v.

ROGER J. STONE, JR.,

Defendant.

Criminal No. 19-cr-18-ABJ

**GOVERNMENT’S SUPPLEMENTAL AND AMENDED SENTENCING
MEMORANDUM**

The United States of America, by and through the United States Attorney for the District of Columbia, hereby submits this supplemental and amended memorandum in connection with the sentencing of Roger J. Stone (“the defendant”) scheduled for February 20, 2020.

INTRODUCTION

The prior filing submitted by the United States on February 10, 2020 (Gov. Sent. Memo. ECF No. 279) does not accurately reflect the Department of Justice’s position on what would be a reasonable sentence in this matter. While it remains the position of the United States that a sentence of incarceration is warranted here, the government respectfully submits that the range of 87 to 108 months presented as the applicable advisory Guidelines range would not be appropriate or serve the interests of justice in this case.

It is well established that the prosecutor “is the representative not of an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all; and whose interest, therefore, in a criminal prosecution is not that it shall win a case, but that justice shall be done.” *Berger v. United States*, 295 U.S. 78, 88 (1935). This axiom does not simply apply to the process of bringing charges or securing a conviction—it also “must necessarily extend” to the point where a prosecutor advocates for a particular

sentence. *See United States v. Shanahan*, 574 F.2d 1228, 1231 (5th Cir. 1978) (reviewing sentencing conduct of prosecutor). Applying that principle here, to the specific facts of this case, the government respectfully submits that a sentence of incarceration far less than 87 to 108 months' imprisonment would be reasonable under the circumstances. The government ultimately defers to the Court as to the specific sentence to be imposed.

DISCUSSION

The starting point in the sentencing analysis is a calculation of the defendant's applicable advisory Guidelines range. Here, as set forth in the government's initial submission, the defendant's total offense level is arguably 29 and his criminal history category is I, which would result in an advisory Guidelines range of 87 to 108 months. Notably, however, the Sentencing Guidelines enhancements in this case—while perhaps technically applicable—more than double the defendant's total offense level and, as a result, disproportionately escalate the defendant's sentencing exposure to an offense level of 29, which typically applies in cases involving violent offenses, such as armed robbery, not obstruction cases. *Cf.* U.S.S.G. § 2B3.1(a)-(b). As explained below, removing these enhancements would have a significant effect on the defendant's Guidelines range. For example, if the Court were not to apply the eight-level enhancement for threatening a witness with physical injury, it would result in the defendant receiving an advisory Guidelines range of 37 to 46 months, which as explained below is more in line with the typical sentences imposed in obstruction cases. Accordingly, it would be reasonable for the Court to conclude that the Guidelines range as calculated is unduly high on the facts of this case.

After calculating the Guidelines, the Court next turns to the statutory sentencing factors. Title 18 of the United States Code Section 3553(a) states that a sentencing court should “impose

a sentence sufficient, but not greater than necessary” to achieve the statutory goals of sentencing. In doing so, Section 3553(a) delineates several factors that the court must consider when imposing a sentence, “and the sentencing range . . . as set forth in the Guidelines” is but one of those factors. As the United States Supreme Court has stated, while a sentencing court must “give respectful consideration to the Guidelines, it is well-settled that *Booker* permits the court to tailor the sentence in light of other statutory concerns as well.” *Kimbrough v. United States*, 522 U.S. 85, 101 (2007). In fact, the Supreme Court has stated that a sentencing court “may not presume that the Guidelines range is reasonable but must make an individualized assessment based on the facts presented.” *Gall v. United States*, 552 U.S. 38, 50 (2007).

Section 3553(a) also directs the Court to consider, among other criteria, the “nature and circumstances of the offense,” the “need to afford adequate deterrence to criminal conduct,” and “the need to avoid unwarranted sentencing disparities.” Here, there are several facts and circumstances supporting the imposition of a sentence below 87 to 108 months’ imprisonment.

First, as noted above, the most serious sentencing enhancement in this case—the eight-level enhancement under Section 2J1.2(b)(1)(B) for “threatening to cause physical injury”—has been disputed by the victim of that threat, Randy Credico, who asserts that he did not perceive a genuine threat from the defendant but rather stated that “I never in any way felt that Stone himself posed a direct physical threat to me or my dog.” (ECF No. 273). While Mr. Credico’s subjective beliefs are not dispositive as to this enhancement, the Court may consider them when assessing the impact of applying the enhancement – particularly given the significant impact that the enhancement has on the defendant’s total Guidelines range.

Second, the two-level enhancement for obstruction of justice (§ 3C1.1) overlaps to a degree with the offense conduct in this case. Moreover, it is unclear to what extent the

defendant's obstructive conduct actually prejudiced the government at trial.

Third, the Court must “avoid unwarranted sentencing disparities.” *See* 18 U.S.C. § 3553(a)(6). In its prior filing, the Government directed the Court's attention to a non-exhaustive list of witness tampering, false statement, and obstruction of justice cases that resulted in sentences of thirty months (*Libby*), thirteen months (*Manafort*), six months (*Lavelle*), twelve months (*Hansen*), and thirty-five months (*Solofa*). While these cases involved lesser offense conduct, the sentences imposed constituted a fraction of the penalty suggested by the advisory Guidelines in this case.

Finally, the Court also should consider the defendant's advanced age, health, personal circumstances, and lack of criminal history in fashioning an appropriate sentence. As noted above, a sentence of 87 to 108 months more typically has been imposed for defendants who have higher criminal history categories or who obstructed justice as part of a violent criminal organization. *See, e.g., United States v. Bender*, 927 F.3d 1031 (8th Cir. 2019) (affirming eight-level enhancement for defendant involved in a “gang war” in Minneapolis who instructed a friend to give two fellow gang members the “green light” to “smash” cooperating witnesses); *United States v. Denham*, 436 F. App'x 627 (6th Cir. 2011); *United States v. Salazar*, 542 F.3d 139 (5th Cir. 2008) (affirming eight-level enhancement for defendant who threatened to rape and kill the wife of a cooperating witness in a drug distribution conspiracy prosecution).

CONCLUSION

The defendant committed serious offenses and deserves a sentence of incarceration that is “sufficient, but not greater than necessary” to satisfy the factors set forth in Section 3553(a). Based on the facts known to the government, a sentence of between 87 to 108 months' imprisonment, however, could be considered excessive and unwarranted under the

circumstances. Ultimately, the government defers to the Court as to what specific sentence is appropriate under the facts and circumstances of this case.

Respectfully submitted,

TIMOTHY J. SHEA
UNITED STATES ATTORNEY

By: /s/ John Crabb Jr.
Assistant United States Attorney
Acting Chief, Criminal Division
N.Y. Bar No. 2367670
United States Attorney's Office
555 4th Street, N.W.
Washington, D.C. 20530
(202) 252-1794
john.d.crabb@usdoj.gov

From: [Shea, Timothy \(USADC\)](#)
To: [b6 per EOUSA](#) (USADC)
Subject: FW: Final version
Date: Tuesday, February 11, 2020 8:58:21 AM
Attachments: [attachment 1.pdf](#)
[ATT00001.htm](#)

PPO

From: Crabb, John D. (USADC) <[b6 per EOUSA](#)>
Sent: Monday, February 10, 2020 10:19 PM
To: Shea, Timothy (USADC) <[b6 per EOUSA](#)>
Cc: Evangelista, Alessio (USADC) <[b6 per EOUSA](#)>; Metcalf, David (USADC) <[b6 per EOUSA](#)>
Subject: Re: Final version

On Feb 10, 2020, at 9:27 PM, Shea, Timothy (USADC) <[REDACTED] b6 per EOUSA [REDACTED]> wrote:

Could someone please send me the final version of the sentencing memo.

Tim

Sent from my iPhone

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA

v.

ROGER J. STONE, JR.,

Defendant.

Criminal No. 19-cr-18-ABJ

GOVERNMENT’S SENTENCING MEMORANDUM

The United States of America, by and through the United States Attorney for the District of Columbia, hereby submits this memorandum in connection with the sentencing of Roger J. Stone scheduled for February 20, 2020. On November 15, 2019, a jury found Stone guilty of obstructing a congressional investigation in violation of 18 U.S.C. § 1505 (count 1); making numerous false statements to Congress in violation of 18 U.S.C. § 1001(a)(2) (counts 2-6); and witness tampering in violation of 18 U.S.C. § 1512(b)(1) (count 7). As explained below, a sentence consistent with the applicable advisory Guidelines would accurately reflect the seriousness of his crimes and promote respect for the law.

STATEMENT OF FACTS

A. Factual Background

The jury found Stone guilty of obstructing a congressional investigation, making numerous false statements to Congress, and witness tampering. This conduct was part of an effort to hide from Congress and to craft a false narrative about Stone’s conduct in 2016. The government briefly summarizes those background events.

In 2016, Stone’s longtime associate Donald Trump was running for President of the United States. In the months leading up to the 2016 presidential election, Stone made repeated efforts to

obtain information from an organization called WikiLeaks that would help the Trump campaign and harm the campaign of Trump's opponent, Hillary Clinton.

On June 12, 2016, the head of WikiLeaks, Julian Assange, publicly announced that WikiLeaks had information about Clinton that was pending publication. Two days later, the Democratic National Committee ("DNC") announced that it had been hacked by the Russians.

On July 22, 2016, WikiLeaks began releasing thousands of emails belonging to the DNC. Three days later, on July 25, Stone e-mailed his associate Jerome Corsi with the subject line "Get to Assange." In the email, Stone wrote, "At the Ecuadorian Embassy in London and get the pending wikileaks emails...they deal with Foundation, allegedly." During this time, Assange was living at the Ecuadorian Embassy in London.

Stone emailed Corsi again, this time instructing him that a mutual associate who was living in London, Ted Malloch, should "see Assange." On August 2, Corsi emailed Stone: "Word is friend in embassy plans 2 more dumps. One shortly after I'm back. 2nd in Oct. Impact planned to be very damaging. . . Time to let more than Podesta be exposed as in bed w enemy if they are not ready to drop HRC. That appears to be the game hackers are now about. . . Would not hurt to start suggesting HRC old, memory bad, has stroke – neither he nor she well. I expect that to be much of next dump focus, setting stage for Foundation debacle." "Friend in embassy" referred to Assange. "HRC" referred to Hillary Clinton. "Podesta" referred to John Podesta, Clinton's Campaign chairman. "Foundation" referred to the Clinton Foundation.

Soon after he received Corsi's email, Stone made a series of public statements that he was in contact with Assange, and that he knew what information Assange was planning to release. On at least five occasions between August 8 and August 18, 2016, Stone publicly stated that he had communicated with Assange through an intermediary, whom Stone described as a "back-channel"

or “trusted mutual friend.” The evidence admitted at trial showed that the individual Stone was referencing in these public statements was Corsi, the author of the August 2, 2016 email reporting that “[w]ord is friend in embassy plans 2 more dumps.”

During this time period, Stone regularly communicated with senior Trump campaign officials—including Deputy Campaign Chairman Richard Gates and Campaign CEO Steve Bannon—about WikiLeaks’ plans to release more information that would be damaging to the Clinton campaign. Both Gates and Bannon believed that Stone was providing them with non-public information about WikiLeaks’ plans. Indeed, Bannon viewed Stone as the Trump campaign’s access point to WikiLeaks.

Stone’s efforts to obtain inside information about WikiLeaks’ plans were not limited to his communications with Corsi. On September 18, 2016, Stone emailed his longtime associate Randy Credico with a “request” to pass on to Assange. Stone chose Credico for this request because Assange had been a guest on Credico’s radio show on August 25, 2016. In the email, Stone asked Credico to find out whether Assange would be releasing messages related to Clinton’s handling of a matter in Libya when she was Secretary of State. In follow-up emails and text messages, Stone repeatedly urged Credico to pass the request to Assange. Credico told Stone that he would do so, and he wrote to Stone, “just remember, do not name me as your connection to Assange. You had one that you referred to.” Credico eventually forwarded Stone’s request to his friend Margaret Kunstler, a lawyer who did work for WikiLeaks. Credico blind copied Stone on the email to Kunstler. Kunstler never responded to the email.

In early October 2016, Credico traveled to London. On that trip, Credico sent Stone several text messages suggesting that Credico had non-public information about a forthcoming WikiLeaks release. (In fact, Credico did not have any inside information on this subject.) When

he received these messages from Credico, Stone relayed information about WikiLeaks' plans to individuals associated with the Trump campaign, including Bannon and Erik Prince.

On Friday, October 7, 2016, at 4:32 PM, WikiLeaks began releasing emails hacked from Clinton Campaign Chairman John Podesta's email account. Shortly after the release began, Bannon's personal spokesperson messaged Stone, "Well done." Bannon also heard that weekend from people involved in the Trump Campaign that Stone was involved in the WikiLeaks release of Podesta's hacked emails.

B. Offense Conduct

In January 2017, the United States House of Representatives Permanent Select Committee on Intelligence ("House Intelligence Committee") announced an investigation into allegations of Russian interference in the 2016 presidential election. As part of that investigation, the House Intelligence Committee was considering Russian involvement in obtaining and transmitting stolen documents that were eventually released by WikiLeaks and any links with the Trump Campaign. Stone testified before the Committee on September 26, 2017.

Prior to Stone's testimony before the Committee, Stone and Credico continued to discuss WikiLeaks. In several of those conversations, Credico asked Stone about the identity of the intermediary or back-channel with Assange that Stone had referenced in his August 2016 public statements. Stone told Credico, "That would be you." Credico repeatedly told Stone that Credico could not have been the intermediary Stone referenced in those statements because Credico's first contact with Assange—to arrange the August 25, 2016 radio interview—occurred after Stone's public statements. Thus, on January 6, 2017, Credico emailed Stone, "You may as well tell the truth, you had no back channel, or there's the guy you were talking about early August."

When Credico would raise this objection, Stone would respond that he could use the

September 2016 email that Credico had sent to Kunstler requesting information about WikiLeaks' holdings to support Stone's account that Credico was Stone's sole intermediary with Assange. Credico was concerned by Stone's suggestion that he would involve Kunstler in the matter, because Kunstler was a very close friend of Credico's, and an older woman, and Credico feared that Stone would bring Kunstler unwanted public attention.

In his testimony before the House Intelligence Committee, Stone told the Committee five categories of lies. Those lies were designed to conceal Stone's communications with Corsi, Credico, and the Trump campaign about WikiLeaks in 2016.

First, Stone testified falsely about the identity of the person he referenced in his August 2016 public statements about having a back-channel to Assange. During the hearing, Stone was repeatedly asked about the identity of this person, and the Committee members stressed the importance of this information over and over again. For instance, Congressman Quigley stated during the hearing: "So perhaps the most important question anyone can ask you today is who was the intermediary...." Ex. 1, p. 41. Likewise, Congressman Gowdy noted, during a back-and-forth with Stone, "the indispensability of interviewing the original source" (*i.e.*, Stone's back-channel) and told Stone "if you're willing to go back and ask your intermediary go-between – that would be helpful." Ex. 1, p. 65. Similarly, Congressman Schiff stated that the House Intelligence Committee "will need to determine which is accurate, whether you were in communication with Assange or you were in communication through an intermediary." Ex. 1, p. 81.

Stone's answer to this question was false. In his testimony before the Committee, Stone told the Committee that his August 2016 references to being in contact with Julian Assange were references to communications with a *single* "go-between," "mutual friend," and "intermediary." In a follow-up letter to the Committee sent in October 2017, Stone told the Committee that this

single intermediary was Credico. In fact, as Credico had repeatedly pointed out to Stone prior to Stone's testimony, Credico could not have been the person that Stone referenced in August 2016 because Credico had no contact with Assange until after Stone's public statements. Indeed, Stone and Credico did not even discuss Assange until August 19, 2016, when Credico told Stone that he was trying to book Assange on his radio show. As discussed above, the intermediary or back-channel that Stone referenced in his August 2016 public statements was Corsi.

Second, Stone testified falsely that he did not ask the person he referred to as his "go-between," "mutual friend," and "intermediary," to communicate anything to Julian Assange and did not ask the intermediary to do anything on Stone's behalf. In fact, as early as July 2016, Stone told Corsi to "get to Assange" and "get the pending wikileaks emails." And in September 2016, Stone repeatedly told Credico to ask Assange about whether WikiLeaks had any documents concerning Hillary Clinton and Libya. Indeed, Stone forwarded that email chain back to Credico in March 2018, six months *after* his testimony before the Committee.

Third, Stone testified falsely that he had never discussed his conversations with the person he referred to as his "go-between," "mutual friend," and "intermediary" with anyone involved in the Trump Campaign. In fact, Stone had conversations with Gates, Bannon, and Trump campaign Chairman Paul Manafort about information that he had received from Corsi and Credico. And Stone sent emails and text messages to Bannon and Prince about WikiLeaks.

Fourth, Stone testified falsely that he and the person he referred to as his "go-between," "mutual friend," and "intermediary" did not communicate via text message or email about WikiLeaks. In fact, Stone exchanged numerous text messages and emails about WikiLeaks with both Corsi (the actual intermediary) and Credico (the person Stone falsely identified as his intermediary). Those messages included: Stone's July 25, 2016 email instructing Corsi to "get

to Assange”; Stone’s July 31, 2016 email to Corsi instructing that “Malloch should see Assange”; Corsi’s August 2, 2016 email to Stone reporting, “Word is friend in embassy plans two more dumps”; and Stone’s emails and text messages to Credico in September 2017 urging him to pass a request for information to Assange. Indeed, between June 2016 and September 2017, Stone exchanged over 1,500 written communications with Credico. On the very day that Stone testified before the Committee that he had no written communications with the intermediary, Stone exchanged 72 text messages with Credico.

Fifth, Stone testified falsely that he did not have any emails with third parties about Julian Assange, and that he did not have any documents, emails, or text messages that refer to Assange. In fact, in 2016, Stone exchanged numerous emails and text messages about Assange. Those messages included the communications with Credico and Corsi discussed above, as well as his emails and text messages with Bannon and Prince about Assange.

Stone’s false statements about documents had a significant impact on the Committee’s investigation. After Stone falsely testified that he had no written communications with his intermediary and that he had no written communications referencing Assange, the Committee did not issue a subpoena to Stone for those categories of documents. When the FBI began investigating Stone’s conduct in 2018, the text messages between Stone and Credico from November 2016 to November 2017, which the Committee surely would have subpoenaed if Stone had told the truth about their existence, were gone.

After Stone sent the House Intelligence Committee the letter falsely identifying Credico as the intermediary referenced in Stone’s August 2016 public statements, the Committee contacted Credico to request a voluntary interview. Stone knew that truthful testimony from Credico would expose the many lies that Stone had told the Committee. And so Stone began a

concerted effort to prevent Credico from testifying truthfully before the Committee. Between November 2017, when the Committee first contacted Credico requesting an interview, and the spring of 2018, Stone repeatedly emailed and texted Credico urging him either to testify falsely before the Committee or not to testify at all. For example, on November 19, 2017, Credico wrote to Stone, “My lawyer wants to see me today.” Stone responded, “Stonewall it. Plead the Fifth. Anything to save the plan. Richard Nixon.” That sentence is a paraphrase of a well-known statement by then-President Richard Nixon to aides John Dean and John Mitchell during the Watergate investigation. The next day, Credico’s attorney informed the Committee that Credico would not participate in a voluntary interview.

Similarly, on November 21, 2017, Credico told Stone that he would be getting a subpoena from the Committee. Stone responded, “That was the point at which your lawyer should have told them you would assert your Fifth Amendment rights if compelled to appear.” Later that day, Credico asked Stone if he would be receiving a subpoena, and Stone told him he was “trying to find out.” Stone then told Credico that “If they know you will take the Fifth if subpoenaed, it makes it less likely.”

In total, between November 2017 and May 2018, Stone sent Credico at least seven written communications urging him to plead the Fifth before the Committee.

Stone also used a movie reference that he knew Credico would understand to try to persuade Credico to falsely tell the Committee that he did not remember the relevant events. On November 27, 2017, the day the Committee issued a subpoena to Credico, Stone wrote to Credico, “This whole thing will be worthless unless you find a place to do your Frank Cannon 10 July imitation: ‘Sure. Sure. Roger Stone this, Roger Stone that.’” Seventeen seconds later, Stone wrote “Frank Pantsgele.” The line Stone quoted to Credico was spoken by a character, Frank Pentangeli,

in a scene from the movie *The Godfather, Part II*. In that scene, Pentangeli arrives at a Senate hearing to testify against Michael Corleone. Pentangeli's testimony is expected to establish that another witness before the Senate committee, Michael Corleone, has perjured himself. After Corleone arrives with Pentangeli's brother, Pentangeli lies and claims he doesn't know anything about Corleone's criminal activity. When Pentangeli is confronted with his prior statements about Corleone, Pentangeli tells the Committee that he lied to the FBI, testifying that when the FBI asked about Corleone's criminal activity, Pentangeli said, "Sure, sure, Michael Corleone this, Michael Corleone that." The import of this message from Stone to Credico was unmistakable. As Credico testified at trial, when Stone told Credico to "do a Pentangeli," Credico understood Stone to mean that Credico should "throw them off," rebuff, and "divert" the Committee, by falsely claiming not to recall any of the conversations Credico had with Stone or the events that had transpired.

While Stone was pressuring Credico to plead the Fifth or "do a Pentangeli" before the Committee, Stone was keeping the real intermediary, Jerome Corsi, apprised of his efforts. On November 30, 2017, Stone emailed Corsi. Stone and Corsi discussed Credico's potential testimony, and Corsi suggested Stone not make further statements about Credico because that could raise "new questions that will fuel new inquiries." Stone responded, "Credico will take the fifth. But let's hold a day."

Between December 2017 and May 2018, Stone and Credico continued to communicate about the House Intelligence Committee investigation by email and text messages. In those communications, Credico repeatedly told Stone that Stone had made a false statement to the Committee and urged Stone to amend his testimony. In response, Stone pressed Credico either to testify falsely before the Committee to corroborate Stone's own false testimony or to invoke his

Fifth Amendment privilege against self-incrimination to avoid testifying before the Committee altogether. For example, on December 1, 2017, Credico emailed Stone saying that he was not Stone's backchannel and that he had turned material over to the FBI (even though he had not). Stone responded, "What the fuck is your problem? . . . [Y]ou can get away with asserting your Fifth Amendment rights if you don't want to talk about. And if you turned over anything to the FBI, you're a fool." After more back and forth, Stone told Credico: "If you testify, you're a fool. Because of trump, I could never get away with a certain my Fifth Amendment rights but you can. I guarantee you you are the one who gets indicted for perjury if you're stupid enough to testify." Credico again urged Stone to "tell them the truth . . . you never had a backchannel." Stone wrote back, "You got nothing." The next day, Stone again told Credico, "You are broke and out of work and your lawyers are morons. Start practicing your Pentangeli."

Similarly, on December 24, 2017, Credico again messaged Stone stating that he had documents to prove that he was not Stone's backchannel, and that Stone "should be honest with FBI." Stone responded, "I'm not talking to the FBI, and if you're smart, you won't either." Likewise, on January 8, 2018, Credico again told Stone that there was no way he could have been Stone's backchannel, because he "did not have any conversation with Assange until September of last year. Introduced to him August 25th – I have the email – 2016. Certainly clears me." Stone responded, "No one cares."

Stone also used his knowledge of Credico's relationship with Margaret Kunstler in his witness tampering efforts. On March 10, 2018, Stone forwarded Credico an email containing Credico's correspondence with Margaret Kunstler regarding WikiLeaks materials relating to Libya. Stone wrote, "If you go on with Chris Hayes, be sure to mention this." Credico testified at trial that when he saw this email, he became concerned that Stone could release Credico's email

to Kunstler from September 2017 (on which Stone had been blind-copied) to make it appear as though Kunstler had been involved in WikiLeaks' release of materials regarding Hillary Clinton. As Credico testified at trial, Kunstler is "a very close friend of mine and, you know, she's an older woman, and I didn't want to drag her through this." Tr. 11/8/19 p. 684.

By the spring of 2018, Stone's efforts to tamper with Credico had escalated from movie lines and Fifth Amendment references to outright threats. On April 9, 2018, in an email chain about Stone's testimony, Stone wrote to Credico, "I'm going to take that dog away from you. Not a fucking thing you can do about it either, because you are a weak, broke, piece of shit." As Credico testified at trial, at the time Credico received the message, he did not believe that Stone would steal his dog, but he worried about "other people get[ting] ideas" if Stone posted a public message to this effect. Tr. 11/8/19, p. 795. Later that day, Stone wrote to Credico, "I am so ready. Let's get it on. Prepare to die, cocksucker."

As urged by Stone, Credico declined the House Intelligence Committee's request for a voluntary interview and invoked his Fifth Amendment privilege against self-incrimination in response to a subpoena, just as Stone had instructed him to do. As a result, the Committee never heard testimony from Credico and never saw documents in Credico's possession that would have proved that Stone lied to the Committee.

C. Post-Indictment Conduct

Stone's post-indictment conduct demonstrated the low regard in which he held these proceedings. Shortly after the grand jury returned an indictment charging Stone, this Court entered an order prohibiting Stone from making certain statements near the courthouse but declining to impose any further restrictions on Stone's public statements about the case. Three days later, on February 18, 2019, Stone posted on Instagram a photograph of the presiding judge

in this case with a symbol that appears to be a crosshairs next to her head. Stone included commentary alongside the image, including the term “Obama-appointed Judge,” with the hashtag “#fixisin,” and referencing Hillary Clinton and Benghazi. When the post received immediate and substantial public attention, Stone filed a “Notice of Apology” with the Court, but simultaneously publicly defended the post and again suggested that the Court was biased against him.

On February 21, 2019, this Court held a hearing on the matter. Stone chose to testify at that hearing. Initially, Stone testified that he “did not select the image” and “did not review it.” Tr. 2/21/19, p. 12. On cross-examination, however, Stone admitted that he posted the picture and that he selected it from among “two or three” images that were sent to him by a “volunteer.” *Id.* pp. 24-25. Stone claimed under oath that he did not recall the name of the volunteer or even who had accessed his phone to obtain the image, even though all of this occurred just a few days before the hearing. During his testimony, Stone asked for a “second chance” and promised to “treat the Court and all [its] orders scrupulously.” *Id.* p. 14.

The Court discredited Stone’s “evolving and contradictory explanations” and found that Stone “could not even keep his story straight on the stand, much less from one day to another.” *Id.* p. 45. The Court further found that “the effect and very likely the intent of the post was to denigrate this process and taint the jury pool,” *id.* p. 52, and that Stone’s actions “posed a very real risk that others with extreme views and violent inclinations would be inflamed,” *id.* p. 45. The Court did not revoke the defendant’s bail but instead modified Stone’s conditions of release to prohibit public statements about “the investigation or the case or any of the participants in the investigation or the case. Period.” *Id.* p. 50.

Soon after, on March 1, the defense moved to “clarify,” representing that before the February 21 hearing, Stone sent material about the relevant investigations to his publisher for a

book with an “imminent” release. After being required to produce supporting information, the defense represented that the book had in fact been on sale for weeks. The Court found that “the pleading of March 1 was either deliberately or recklessly inaccurate,” and that “[On February 21] Stone sat on the witness stand telling me he'd adhere to any order, knowing from an email he received from the publisher on February 15th that the book had already been sent to stores and media outlets.” The Court concluded that, “The whole episode left the strong impression that the original filing seeking, quote/unquote, clarification was just an attempt to get publicity for the book.”

Stone’s promise to “scrupulously” obey the Court’s orders did not last. In the months following the February 21 condition of release, Stone repeatedly violated the Court’s February 21 order, making numerous public comments—typically on Instagram and Facebook—about the pending case and related matters. These included a post asking “Who Framed Roger Stone;” a post about Stone’s arrest asking what the FBI “could possibly be hiding;” a post touting that Stone had “challenged the entire ‘Russia hacked the DNC/CrowdStrike’ claim by the Special Counsel;” a photograph of former-CIA Director John Brennan stating that “This psycho must be charged, tried, convicted ... and hung for treason” (ellipses in original); and a statement to *Buzzfeed* about whether Stone had told then-candidate Trump about communications with the head of “Organization 1.”

Stone also posted statements about the substance of his defense. For example, on June 18, Stone posted an article about one of his filings in the case: “US Govt’s Entire Russia-DNC Hacking Narrative Based on Redacted Draft of CrowdStrike Report.” Stone tagged the post, “But where is the @NYTimes? @washingtonpost? @WSJ? @CNN?” Stone posted another article about his filing, titled “FBI Never Saw CrowdStrike Unredacted Final Report on Alleged Russian

Hacking Because None was Produced.” Stone also posted an article titled, “Stone defense team exposes the ‘intelligence community’s’ betrayal of their responsibilities” and quoted this language: “As the Russia Hoax is being unwound, we are learning some deeply disturbing lessons about the level of corruption at the top levels of the agencies charged with protecting us from external threats. One Jaw-dropping example has just been exposed by the legal team defending Roger Stone.” Stone again tagged major media outlets. On June 19, Stone posted a screenshot of an article with the title, “FBI Never Saw CrowdStrike Unredacted or Final Report on Alleged Russian Hacking Because None Was Produced.” He added, “The truth is slowly emerging.”

On July 16, 2019, at a hearing on this matter, the Court found that Stone had violated the February 21 order. While some of Stone’s posts may have been a “nudge at the line,” Tr. 7/16/19, p. 71, and some “were initially statements made by other people,” *id.* p. 72, the Court concluded that Stone’s posting and disseminating commentary about the case and investigation, “with his imprimatur” and sometimes added commentary, constituted statements by Stone, *id.* The Court further found that Stone’s “obvious purpose” was “to gin up more public comment and controversy about the legitimacy of the Mueller investigation and the House investigation to get people to question the legitimacy of this prosecution.” *Id.* p. 73. The Court noted that it had twice given Stone “the benefit of the doubt,” *id.* p. 74, but Stone’s conduct did not match his assurances and his explanations required “twist[ing] the facts” and “twist[ing] the plain meaning of the order,” *id.* p. 75. The Court found that Stone had shown himself “unwilling” to follow the court’s orders and that Stone seemed intent on drawing “maximum attention to what [he] view[s] as flaws in the investigation.” *Id.* The Court did not revoke his conditions of release but instead added an “additional condition” to the existing order, that Stone “may not post or communicate on Instagram, Twitter or Facebook in any way.” *Id.*

On November 15, 2019, internet broadcaster Alex Jones¹ stated on his broadcast:

Roger Stone's message is this: He expects to be convicted. He said 'only a miracle' can save him now. *That's his exact words to me last night and this morning. And he said to me, 'Alex, barring a miracle, I appeal to God, and I appeal to your listeners for prayer, and I appeal to the President to pardon me because to do so would be a action that would show these corrupt courts that they're not going to get away with persecuting people for their free speech or for the crime of getting the President elected. If we don't do that, it will embolden their criminal activity.'*² (emphasis added).

Following Stone's conviction on November 15, 2019, Stone's attorney told this Court he had "no personal knowledge" of the accuracy of Jones's statement, but did not deny that Stone had contacted Jones. Tr. 11/15/19, at 12. Shortly thereafter, Jones read a message live on air directly from his cell phone, stating that it was a text from one of Stone's "lawyers," that said, "your reporting almost got Roger taken into custody immediately upon the verdicts. The government cited you and argued for immediate imprisonment. Please be cautious about your comments concerning private communications."³

Jones then reiterated that he had spoken with Stone about the case while it was ongoing, and that Stone had instructed him to "ask for my pardon."⁴ Jones further stated, "I need to watch out, the lawyers are telling me, because I'm doing what Roger said."⁵ Jones then stated that he

¹ On November 7, 2016, Jones released on his broadcast the name and picture of an alleged prospective juror, claiming that she was a "minion" in a plot against Stone. *See Alex Jones Goes on Tirade Against Roger Stone Jurors*, November 7, 2019, available at <https://www.thedailybeast.com/alex-jones-goes-on-tirade-against-roger-stone-jurors>. On his show, Jones interviewed Jacob Engels, whom Stone had previously identified to this Court as one of his "volunteers," to help "identify" the juror. *See* Tr. 2/21/19, at 25. This Court found that Jones's actions were "uninformed" and "false," caused "great consternation among members of the public," and "put[] the safety of all the people associated with this case, on both sides, and including, possibly, the jurors, at risk." Tr. 11/8/19, at 678.

² <https://www.mediamatters.org/media/3839486/embed/embed>

³ *See* <https://www.bitchute.com/video/bDpYzYCRhmgL/> (beginning at 37:20).

⁴ *Id.* (38:15).

⁵ *Id.* (38:30).

was “talking” with one of Stone’s lawyers “right now.”⁶ Jones held up his phone and stated that there was “tyranny at levels I’ve never even heard of before.”⁷

GUIDELINES CALCULATION

The government submits that Stone’s total offense level is 29 and his Criminal History Category is I, yielding a Guidelines Range of 87-108 months.

Counts 1 through 7 are grouped for Guidelines calculation purposes because they involve the same victim and two or more acts or transactions connected by a common criminal objective or constituting part of a common scheme or plan. U.S.S.G. § 3D1.2(b).

The applicable Guideline for the Group is § 2J1.2 (“Obstruction of Justice”). The base offense level is 14. U.S.S.G. § 2J1.2(a).

Pursuant to U.S.S.G. § 2J1.2(b)(1)(B), eight levels are added because the offense “involved causing or threatening to cause physical injury to a person, or property damage, in order to obstruct the administration of justice.” As detailed above, as part of Stone’s campaign to keep Credico silent, Stone told Credico in writing, “Prepare to die, cocksucker.” Stone also threatened (again in writing) to “take that dog away from you.” Stone may point to the letter submitted by Credico and argue that he did not have a serious plan to harm Credico or that Credico did not seriously believe that Stone would follow through on his threats. But Credico testified that Stone’s threats concerned him because he was worried that Stone’s words, if repeated in public, might make “other people get ideas.” Tr. 11/8/19, at 795.

In any event, it is the threat itself, not the likelihood of carrying out the threat, that triggers the enhancement. Endeavoring to tamper with a witness can involve a wide range of conduct.

⁶ See <https://www.bitchute.com/video/8alVsp794uVN/> (beginning at 45:10).

⁷ *Id.* (46:00).

This enhancement recognizes that when the conduct involves threats of injury or property damage, rather than simple persuasion for example, the base offense level does not accurately capture the seriousness of the crime. To apply the enhancement, there is no “additional ‘seriousness’ requirement beyond the fact of a violent threat.” *See United States v. Plumley*, 207 F.3d 1086, 1089-1091 (8th Cir. 2000) (applying § 2J1.2(b)(1)(B) to a defendant who told coconspirators to “‘keep our mouth shut,’ because if anyone cooperated with the police he would ‘kick our ass’”); *United States v. Bakhtairi*, 714 F.3d 1057, 1061 (8th Cir. 2013) (holding there was no seriousness requirement and applying § 2J1.2(b)(1) to a defendant who wrote a menacing email, displayed a loaded rifle to a law partner, and doctored photographs of witnesses children to “add . . . cross-hairs”); *United States v. Smith*, 387 F.3d 826, (9th Cir. 2004) (applying § 2J1.2(b)(1)(B) to a defendant who threatened to kill a witness and “kick [her] ass,” and noting that § 2J1.2(b)(1) does not contain a “seriousness requirement”).

Pursuant to U.S.S.G. § 2J1.2(b)(2), three levels are added because the offense resulted in substantial interference with the administration of justice. Because of Stone’s conduct, the House Intelligence Committee never received important documents, never heard from Credico (who pled the Fifth), and never heard from Corsi (who was never identified to the Committee as the real “back-channel” that Stone had referenced in August 2016). The Committee’s report even wrongly stated that there was no evidence contradicting Stone’s claim that all his information about WikiLeaks was from publicly available sources.

Pursuant to U.S.S.G. § 2B1.2(b)(3)(C), two levels are added because the offense was otherwise extensive in scope, planning, or preparation. Stone engaged in a multi-year scheme involving (1) false statements in sworn testimony; (2) the concealment of important documentary evidence; (3) further lies in a written submission to Congress; and (4) a relentless and elaborate

campaign to silence Credico that involved cajoling, flattering, crafting forged documents, badgering, and threatening Credico's reputation, friend, life, and dog. Stone's efforts were as extensive, if not more extensive, than those of other defendants who received this two-level enhancement at sentencing. *See, e.g., United States v. Petruk*, 836 F.3d 974 (8th Cir. 2016) (enlisting a friend to create a false alibi and scripting a false confession); *United States v. Jensen*, 248 Fed. Appx. 849 (10th Cir. 2007) (giving advance notice of testing and falsifying results of tests).

Finally, pursuant to U.S.S.G. § 3C1.1, two levels are added because the defendant "willfully obstructed or impeded, or attempted to obstruct or impede, the administration of justice with respect to the prosecution of the instant offense of conviction." Shortly after the case was indicted, Stone posted an image of the presiding judge with a crosshair next to her head. In a hearing to address, among other things, Stone's ongoing pretrial release, Stone gave sworn testimony about this matter that was not credible. Stone then repeatedly violated a more specific court order by posting messages on social media about matters related to the case.

This enhancement is warranted based on that conduct. *See* U.S.S.G. § 3C1.C Cmt. 4(F) ("providing materially false information to a magistrate or judge"); *see, e.g., United States v. Lassequ*, 806 F.3d 618, 625 (1st Cir. 2015) ("Providing false information to a judge in the course of a bail hearing can serve as a basis for the obstruction of justice enhancement."); *United States v. Jones*, 911 F. Supp. 54 (S.D.N.Y. 1996) (applying §3C1.1 enhancement to a defendant who submitted false information at hearing on modifying defendant's conditions of release).

Accordingly, Stone's total offense level is 29 (14 + 8 + 3 + 2 + 2), and his Criminal History Category is I. His Guidelines Range is therefore 87-108 months.

DISCUSSION

The advisory Sentencing Guidelines promote the “basic aim” of Congress in enacting the Sentencing Reform Act, namely, “ensuring similar sentences for those who have committed similar crimes in similar ways.” *United States v. Booker*, 543 U.S. 220, 252 (2006). Along with the Guidelines, the other factors set forth in Title 18, United States Code, Section 3553(a) must be considered. Section 3553(a) directs Courts to impose a sentence “sufficient, but not greater than necessary” to comply with the following purposes:

- (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;

Section 3553(a) further directs the Court to consider: (1) the nature and circumstances of the offense and the characteristics of the defendant; (2) the statutory purposes noted above; (3) the kinds of sentences available; (4) the kinds of sentences and the sentencing range as set forth in the Guidelines; (5) the Guidelines policy statements; (6) the need to avoid unwarranted sentencing disparities; and (7) the need to provide restitution to any victims of the offense. 18 U.S.C. § 3553(a). Each of these matters is addressed further below.

1. The Seriousness of the Offense

Foreign election interference is the “most deadly adversar[y] of republican government.” Federalist Papers No. 68 (Hamilton). Investigations into election interference concern our national security, the integrity of our democratic processes, and the enforcement of our nation’s

criminal laws. These are issues of paramount concern to every citizen of the United States. Obstructing such critical investigations thus strikes at the very heart of our American democracy.

The House Intelligence Committee investigation that Stone obstructed was examining allegations that “the Russian government, at the direction of President Vladimir Putin, sought to sow discord in American society and undermine our faith in the democratic process.” In particular, the Committee was investigating allegations of Russian involvement in WikiLeaks’ publication of documents related to the 2016 presidential election. The Committee was also investigating whether “WikiLeaks played a key role in Russia’s malign influence campaign and served as a third party intermediary for Russian intelligence during the period leading up to the 2016 U.S. presidential election.”

It is against this backdrop that Stone’s crimes – his obstruction, lies, and witness tampering – must be judged. Stone knew the gravity of the House Intelligence Committee’s investigation when he obstructed it by giving false testimony and tampering with a witness. Indeed, Stone acknowledged as much in his opening statement before the Committee. Stone chose—consciously, repeatedly, and flagrantly – to obstruct and interfere with the search for the truth on an issue of vital importance to all Americans. This Court should impose a sentence that accurately reflects the value the judicial system places on the need to allow witnesses to testify truthfully without threat or interference, and the importance of testifying truthfully under oath.

2. The Need to Promote Respect for the Law

Stone was not compelled to testify falsely before Congress. He could have told the truth, or he could have declined the invitation to testify altogether. Instead, Stone chose another option: he lied to Congress and then he tampered with a witness who could expose those lies. Stone’s goal, at the outset, was to obstruct the Committee’s search for the truth. Stone’s lies to Congress

and his obstructive conduct are a direct and brazen attack on the rule of law.

3. The Need for Just Punishment

Of crucial importance to the determination of an appropriate sentence here is that Stone decided to double – and triple – down on his criminal conduct by tampering with a witness for months in order to make sure his obstruction would be successful. Over a year passed from the date of Stone’s false testimony to an unsolicited December 2018 letter to the Committee falsely claiming that everything he had said before Congress was accurate. During this time, Stone engaged in a flurry of continuing criminal conduct, telling Randy Credico to do a “Pentangeli”; threatening Credico; and sending further false statements to Congress.

Stone’s actions were not a one-off mistake in judgment. Nor were his false statements made in the heat of the moment. They were nowhere close to that. Indeed, in a statement made on Stone’s behalf immediately after his testimony, in the U.S. Capitol Welcome Center, Stone’s own attorney claimed that Stone had spent “a lot of time preparing for” his testimony and that the House Intelligence Committee did not ask “any questions that we were not prepared for.”⁸ In other words, from the very beginning, Stone anticipated the questions he would be asked by Congress, and came in with a plan to lie and obstruct their inquiry. Stone then continued to implement that plan over the months that followed by tampering with Randy Credico.

Stone also never undertook any action to correct his false statements. Nowhere is this more apparent than in an email exchange from April 2018 admitted into evidence at trial. On April 4, 2018, Stone’s attorney sent Stone and Corsi an email, attaching “the only two emails on

⁸ Roger Stone on Russian and 2016 Presidential Election Investigation, September 26, 2017, available at <https://www.c-span.org/video/?434664-1/roger-stone-special-counsel-fired> (beginning at 1:15).

the subject between the two of you.” Attached to that email were Stone’s July 2016 directives to Corsi to see Assange. On the very same day he received that email with attachments clearly showing that his intermediary was Corsi, Stone pressured Randy Credico, emailing Credico yet another false claim that Credico was his only source. Stone’s conduct took place over an extended period of time, and it was intentional, extensive, and brazen.

4. The Need for Adequate Deterrence

Stone’s conduct over the past two years shows the low regard in which he holds the House Intelligence Committee’s investigation and this very criminal case. That conduct suggests that a period of incarceration is warranted to achieve adequate deterrence.

A period of incarceration would also achieve the goal of general deterrence. In this jurisdiction, Congressional committees hear witnesses testify on a host of topics critical to our country, such as national security, public health and safety, and commerce. A sentence that includes a period of incarceration would serve as a powerful reminder that our democratic processes can function only if those called to testify tell the truth, and that serious consequences lie in store for those who do not.

5. The Characteristics of the Defendant

Stone’s criminal conduct was not an act of desperation. He is a man of substantial means, and he has enjoyed a modicum of fame from his years of being a political advisor and confidant to powerful politicians, and from being an author and host of his own political radio show. Rather, his conduct was undertaken purposefully, by someone who knew exactly what he was doing.

6. A Guidelines Sentence Would Avoid Unwarranted Sentencing Disparities

A sentence consistent with the applicable Guidelines range is just and adequate deterrence. It will send the message that tampering with a witness, obstructing justice, and lying in the context of a congressional investigation on matters of critical national importance are not crimes to be taken lightly. The Court should consider this in light of sentences imposed on other defendants.

For example, Scooter Libby, who was the Chief of Staff of former Vice President Dick Cheney, was convicted of obstruction of justice, false statements, and perjury in the investigation of disclosure of classified information concerning a CIA employee. After he was convicted at trial, Libby received a sentence of 30 months, which fell within the applicable sentencing guidelines range. *See United States v. Libby*, 05-CR-394 (D.D.C. 2005). But unlike Stone, Libby did not engage in witness tampering, let alone extended witness tampering over many months involving pressure, threats, and cajoling. And while the investigation into the disclosure of a CIA operative was undoubtedly of a serious nature, the investigation into Russian interference in the 2016 U.S. Presidential Election concerned grave issues with more far-reaching implications to our democracy and national security.

This Court sentenced Paul Manafort to thirteen months incarceration for a single count of conspiracy to tamper with witnesses. *See United States v. Manafort*, 17-cr-201. However, the tampering Manafort committed was an attempt to induce witnesses “to say falsely that they did not work in the United States as part of the lobbying campaign” Manafort had carried out. Stone’s conduct – lying about his interactions concerning WikiLeaks and the Trump Campaign – concerns a matter substantially more serious. And Manafort pled guilty to that charge and took responsibility for his actions. Moreover, Manafort’s tampering involved no threats to the witnesses and took place over a far more limited period of time. And it did not result in a

substantial interference with the administration of justice, as did Stone's criminal conduct here.

This Court has sentenced other defendants to incarceration in cases involving lying and obstruction of justice in matters involving Congress that were much less significant than the instant one. For instance, in *United States v. Lavelle*, 751 F.2d 1266 (D.C. Cir. 1985), *reversed on other grounds*, *Huddleston v. United States*, 485 U.S. 681 (1988), the former Assistant Administrator of the Environmental Protection Agency ("EPA"), Rita Lavelle, was convicted by a jury of perjury and obstruction of justice for lying to Congress about her administration of the EPA's "Superfund" program in matters affecting her former employer, an airline company. *Id.* at 1286. Lavelle's case was clearly of much less significance than Stone's case, and her case involved no witness tampering. Nonetheless, the District Court sentenced Lavelle to six months in prison. *Id.* at 1271.

Similarly, in *United States v. Hansen*, 83-cr-0075 (D.D.C.), George Hansen, a former United States Congressman, was convicted by a jury of four counts of making false statements, in violation of 18 U.S.C. § 1001, for failing to disclose, respectively, a \$50,000 bank loan to his wife on his congressional financial disclosure form for 1978, an \$87,475 silver commodities profit on his disclosure form for 1979, a \$61,503.42 loan on his disclosure form for 1980, and \$135,000 in loans from private individuals on his disclosure form for 1981. Hansen's false statements were clearly not as significant as Stone's, and Hansen did not engage in witness tampering or obstruction of a proceeding. Nonetheless, Hansen served 12 months in prison for his false statements. *See, e.g., United States v. Hansen*, 906 F. Supp. 668, 691 (D.D.C. 1995).

In *United States v. Solofa*, 10-cr-250 (RBW), the defendant was sentenced to 35 months imprisonment on charges of obstruction of justice and witness tampering. The charges stemmed from a scheme whereby another defendant, Nauer, who worked for the U.S. Department of

Education (“DOE”), submitted fraudulent invoices for school bus parts to another defendant, Mayer, who kicked back part of the money to Nauer. Mayer cooperated with law enforcement and recorded conversations with Solofa, who was DOE's Chief Financial Officer. Solofa was recorded telling Mayer to tell the FBI that he never gave cash to Nauer and that Solofa had no other dealings with anyone else regarding school bus parts. Mayer also made another recording of a conversation with Solofa, telling Solofa that he received a subpoena from the FBI for emails. Solofa told Mayer not to hide anything but “only you know everything...So don't give them any copy you don't want to give them.” A grand jury indicted Solofa on witness tampering, in violation of 18 U.S.C. § 1512(b)(3), and obstruction of justice, in violation of 18 U.S.C. § 1503. Solofa was convicted following a jury trial and his Guidelines range was 41-51 months. *United States v. Solofa*, 745 F.3d 1226, 1228 (D.C. Cir. 2014). The Court ultimately varied downward and sentenced Solofa to 35 months in prison, which the Court of Appeals affirmed. Clearly, Solofa’s conduct was much less extensive than Stone’s conduct, and involved a matter of lesser public significance. Nevertheless, the Court sentenced Solofa to considerable jail time.

In all, the government submits that a sentence consistent with the Guidelines is appropriate based on the nature and extent of Stone’s conduct, the length of time it transpired (nearly two years), and the matter of significant national importance that it centered upon. A sentence consistent with the Guidelines is also appropriate to deter others who intend to lie before Congress, obstruct a Congressional proceeding, or tamper with a witness (or, in Stone’s case, those who intend to commit all three criminal acts). Such a sentence will also take into account Stone’s conduct on pre-trial release, where he openly lied to this Court about matters directly affecting the integrity of these proceedings.

The government recognizes that Section 2J1.2(b)(1)(B) covers a range of conduct, from

making threatening statements to actually causing harm to a witness, and that the resulting increase in the applicable guideline range—50 months on the low end and 62 months on the high end—is significant. The government acknowledges that it is appropriate for the Court to consider the impact that the 8-point upward adjustment Section 2J1.2(b)(1)(B) has on the overall sentencing range, alongside Credico’s own acknowledgement at trial that he and Stone routinely exchanged text messages with hyperbolic language and Credico’s post-trial contention that he did not seriously believe that Stone intended to do him physical harm. The government further recognizes that several of the enhancements discussed above—in particular Section 2J1.2(b)(2) and 2J1.2(b)(3)(c)—cover similar aspects of the offense conduct. The Court may properly consider these things in fashioning a reasonable and just sentence under 18 U.S.C. § 3553(a).

CONCLUSION

Roger Stone obstructed Congress’s investigation into Russian interference in the 2016 election, lied under oath, and tampered with a witness. And when his crimes were revealed by the indictment in this case, he displayed contempt for this Court and the rule of law. For that, he should be punished in accord with the advisory Guidelines.

Respectfully submitted,

TIMOTHY SHEA
U.S. Attorney for the District of Columbia

By: /s/
Jonathan Kravis
Michael J. Marando
Assistant United States Attorneys

Adam C. Jed
Aaron S.J. Zelinsky
Special Assistant United States Attorney
555 4th Street NW
Washington, D.C. 20530

From: [Martin, Thomas \(Pat\) \(USADC\)](#)
To: [Shea, Timothy \(USADC\)](#)
Cc: [Crabb, John D. \(USADC\)](#)
Subject: FW: Stone Sentencing Recommendation
Date: Tuesday, February 11, 2020 1:40:23 PM

Afternoon, Tim,

I'm cc'ing Crabb. I, of course, will not respond.

Pat

From: Sean Davis <sean@thefederalist.com>
Sent: Tuesday, February 11, 2020 12:31 PM
To: Martin, Thomas (Pat) (USADC) <b6 per EOUSA [REDACTED]>; Shea, Timothy (OAG) <b6 per EOUSA [REDACTED]>
Subject: Stone Sentencing Recommendation

Mr. Shea and Mr. Martin,

My name is Sean Davis, and I am a writer with The Federalist, an online political magazine. I have a few quick questions about the recent sentencing recommendation for Roger Stone.

A DOJ official reportedly told Fox News minutes ago that the recommendation signed by Mr. Shea was "grossly disproportionate" and "not what had been briefed to the Department."

<https://www.foxnews.com/politics/doj-expected-to-scale-back-roger-stones-extreme-sentencing-recommendation-official>

Would either of you care to comment on the circumstances of how this particular recommendation managed to find Mr. Shea's signature on it? Did Mr. Shea personally approve of the recommendation from beginning to end, and does he stand by his decision, or was he bullied into it by two disgruntled former Mueller deputies?

This is not the first sentencing decision from former Mueller team members to raise eyebrows. The decision to suddenly recommend prison time for b6 per EOUSA [REDACTED] last month after the government for years recommended only parole, so these types of decisions seem to be something of a habit within the D.C. U.S. Attorney's office. Curiously, the previous U.S. attorney who oversaw that particular recommendation vacated the position shortly thereafter.

Does Mr. Shea have operational control of that office, or is it effectively run by former Mueller operatives such as Brandon Van Grack, Aaron Zelinsky, and Adam Jed?

Any comment either of you could provide on just the latest sentencing snafu would be much appreciated.

Thanks,

Sean

From: [Metcalf, David \(USADC\)](#)
To: [b6 per EOUSA](#) (USADC); [Shea, Timothy \(USADC\)](#)
Subject: Fwd: Stone sentencing memo
Date: Monday, February 10, 2020 4:33:36 PM
Attachments: [stone sentencing memo 2-10-20.docx](#)
[ATT00001.htm](#)

Please print ASAP

Sent from my iPhone

Begin forwarded message:

From: "Evangelista, Alessio (USADC)" <[b6 per EOUSA](#)>
Date: February 10, 2020 at 4:31:36 PM EST
To: "Metcalf, David (USADC)" <[b6 per EOUSA](#)>
Subject: FW: Stone sentencing memo

Did you print for Tim?

From: Cooney, Joseph (USADC) <[b6 per EOUSA](#)>
Sent: Monday, February 10, 2020 4:26 PM
To: Metcalf, David (USADC) <[b6 per EOUSA](#)>; Evangelista, Alessio (USADC) <[b6 per EOUSA](#)>; Crabb, John D. (USADC) <[b6 per EOUSA](#)>
Subject: FW: Stone sentencing memo

From: Kravis, Jonathan (USADC) <[b6 per EOUSA](#)>
Sent: Monday, February 10, 2020 4:22 PM
To: Cooney, Joseph (USADC) <[b6 per EOUSA](#)>; Crabb, John D. (USADC) <[b6 per EOUSA](#)>; Evangelista, Alessio (USADC) <[b6 per EOUSA](#)>
Cc: Jed, Adam (USADC) <[b6 per EOUSA](#)>; Marando, Michael (USADC) <[b6 per EOUSA](#)>; Zelinsky, Aaron (USAMD) <[b6 per EOUSA](#)>
Subject: Stone sentencing memo

Final draft attached. Let me know when we have the ok to file.

Thanks,
Jonathan

Jonathan Kravis
Deputy Chief, Fraud and Public Corruption Section
U.S. Attorney's Office for the District of Columbia
202-252-6886

From: [Shea, Timothy \(USADC\)](#)
To: [DuCharme, Seth \(ODAG\)](#); [DuCharme, Seth \(ODAG\)](#)
Subject: Fwd: Final version
Date: Monday, February 10, 2020 11:14:03 PM
Attachments: [attachment 1.pdf](#)
[ATT00001.htm](#)

I hopefully have your correct email. J1 was looking for this. For your information as well.

Tim

Sent from my iPhone

From: [Hymes, Clare E.](#)
To: [Jed, Adam \(USADC\)](#)
Subject: CBS News Request
Date: Tuesday, February 11, 2020 10:19:55 PM

Hi Mr. Jed,

My name is Clare Hymes and I cover the Department of Justice for CBS News. I was hoping to see if you would be willing to discuss your departure from the Roger Stone case today and the nature around the department's intervention. I'd be happy to talk to you on or off the record, even an on camera interview if you are up for it. Give me a call, text or signal at your convenience.

Respectfully,

Clare Hymes

CBS News

b6 per EOUSA

d

o.202-457-4449

From: [John Kruzel](#)
Bcc: [Jed, Adam \(USADC\)](#)
Subject: Could you add me to distro list for Stone filings?
Date: Monday, February 10, 2020 9:41:31 AM

Good Morning,

I'm covering the Roger Stone proceedings.

Could you please add me to any distribution lists related to court filings or statements regarding this matter?

Thanks,

John

--

John Kruzel
Legal Affairs Reporter
The Hill

b6 per EOUSA

[@johnkruzel](#)

From: [Jed, Adam \(USADC\)](#)
To: [Adam Jed](#)
Subject: Fwd: Withdrawal
Date: Tuesday, February 11, 2020 3:05:58 PM

Sent from my iPhone

Begin forwarded message:

From: "Cooney, Joseph (USADC)" <[REDACTED] b6 per EOUSA >
Date: February 11, 2020 at 3:00:14 PM EST
To: "Zelinsky, Aaron (USAMD)" <[REDACTED] b6 per EOUSA >
Cc: "Kravis, Jonathan (USADC)" <[REDACTED] b6 per EOUSA >, "Marando, Michael (USADC)" <[REDACTED] b6 per EOUSA >, "Jed, Adam (USADC)" <[REDACTED] b6 per EOUSA >
Subject: RE: Withdrawal

Duplicate per EOUSA
[REDACTED]

From: Zelinsky, Aaron (USAMD) <[REDACTED] b6 per EOUSA >
Sent: Tuesday, February 11, 2020 2:59 PM
To: Cooney, Joseph (USADC) <[REDACTED] b6 per EOUSA >
Cc: Kravis, Jonathan (USADC) <[REDACTED] b6 per EOUSA >; Marando, Michael (USADC) <[REDACTED] b6 per EOUSA >; Jed, Adam (USADC) <[REDACTED] b6 per EOUSA >
Subject: Withdrawal

Duplicate per EOUSA
[REDACTED]

From: [John Kruzel](#)
Bcc: [Jed, Adam \(USADC\)](#)
Subject: Hi — can you confirm /comment on this development re: Roger Stone's recommended sentence?
Date: Tuesday, February 11, 2020 12:01:55 PM

Seeing this from a Fox News producer: The DOJ is changing its sentencing recommendation for Roger Stone, according to a Senior DOJ official.

“The Department finds seven to nine years extreme, excessive and grossly disproportionate,” the source said, adding the DOJ will clarify its position on sentencing later today

<https://twitter.com/JakeBGibson/status/1227271189346816000?s=20>

Can you confirm / comment?

--

John Kruzel
Legal Affairs Reporter
The Hill
b6 per EOUSA
[@johnkruzel](#)

--

John Kruzel
Legal Affairs Reporter
The Hill
b6 per EOUSA
[@johnkruzel](#)

From: [Jody Godoy](#)
To: [Jed, Adam \(USADC\)](#); [Marando, Michael \(USADC\)](#)
Subject: Left DOJ?
Date: Tuesday, February 11, 2020 5:38:14 PM

Hi Adam and Michael,

I have asked **b6 per EOUSA** but not got a reply yet. Have both of you left the DOJ or just the Stone case?

Thanks for helping me be accurate,

--

Jody Godoy
Senior Reporter, White Collar



Legal News & Data

111 West 19th Street

5th Floor

New York, NY 10011

b6 per EOUSA

From: [Jones, Luke \(USADC\)](#)
To: [Jed, Adam \(USADC\)](#)
Subject: Re: Any update in stone land?
Date: Monday, February 10, 2020 4:32:54 PM

In court but will let you know when I'm back.

Sent from my iPhone

> On Feb 10, 2020, at 4:29 PM, Jed, Adam (USADC) <[b6 per EOUSA](#)> wrote:

>

> [b5 per EOUSA](#) Can we all meet shortly?

>

> Sent from my iPhone

>

>> On Feb 10, 2020, at 4:28 PM, Jones, Luke (USADC) <[b6 per EOUSA](#)> wrote:

>>

>>

>>

>> Sent from my iPhone

From: [Polantz, Katelyn](#)
To: [Jed, Adam \(USADC\)](#)
Subject: Stone case-urgent questions
Date: Tuesday, February 11, 2020 3:18:56 PM

Hi Adam,

We saw Aaron Zelinsky's resignation from the Stone case and are reporting on DOJ's intended plan to change the recommended sentence for Roger Stone. We're trying to understand more about why this is happening/what's going on between the DC USAO and Main. Is Zelinsky's resignation in protest, or has he been removed from the DC USAO?

Will you be staying through the sentencing as a special AUSA in DC?

I'm on my cell phone at **b6 per EOUSA** if you have a moment. I also use Signal.

Many thanks,
Katelyn

--

Katelyn Polantz
Reporter – Justice/courts
CNN
Cell: **b6 per EOUSA**
Katelyn.polantz@cnn.com

From: [REDACTED] b6 per EOUSA
To: [Jed, Adam \(USADC\)](#)
Subject: Support for Your Decision re: Stone Prosecution
Date: Tuesday, February 11, 2020 5:54:15 PM

Hi Adam - This is [REDACTED] b6 per EOUSA, in district court.

I support your sentencing recommendation in the Roger Stone case and decision to resign. I'm sorry you and your co-counsel are having to deal with the current administration. [REDACTED] b6 per EOUSA

Thank you for taking a stand.

Best Regards, [REDACTED] b6 per EOUSA

Sent from my iPad

From: [Cooney, Joseph \(USADC\)](#)
To: [Metcalf, David \(USADC\)](#); [Evangelista, Alessio \(USADC\)](#); [Crabb, John D. \(USADC\)](#)
Subject: FW: Stone sentencing memo
Date: Monday, February 10, 2020 4:25:38 PM
Attachments: [stone sentencing memo 2-10-20.docx](#)

From: Kravis, Jonathan (USADC) b6 [REDACTED]
Sent: Monday, February 10, 2020 4:22 PM
To: Cooney, Joseph (USADC) b6 [REDACTED]; Crabb, John D. (USADC) b6 [REDACTED]; Evangelista, Alessio (USADC) b6 [REDACTED]
Cc: Jed, Adam (USADC) b6 [REDACTED]; Marando, Michael (USADC) b6 [REDACTED]; Zelinsky, Aaron (USAMD) b6 [REDACTED]
Subject: Stone sentencing memo

Duplicate per EOUSA



From: [Crabb, John D. \(USADC\)](#)
To: [Evangelista, Alessio \(USADC\)](#); [Metcalf, David \(USADC\)](#); [Cooney, Joseph \(USADC\)](#)
Subject: FW: Stone
Date: Tuesday, February 11, 2020 12:19:37 PM

From: Hsu, Spencer <Spencer.Hsu@washpost.com>
Sent: Tuesday, February 11, 2020 12:14 PM
To: Crabb, John D. (USADC) b6 per EOUSA
Subject: Stone

from a sr doj official: "The department was shocked to see the sentencing recommendation in the roger stone case last night. That recommendation is not what had been briefed to the department. The department finds the recommendation extreme and excessive and disproportionate to Stone's offenses. The department will clarify its position later today."

From: [Cooney, Joseph \(USADC\)](#)
To: [Evangelista, Alessio \(USADC\)](#); [Crabb, John D. \(USADC\)](#)
Subject: FW: Withdrawal
Date: Tuesday, February 11, 2020 3:01:02 PM

From: Cooney, Joseph (USADC)
Sent: Tuesday, February 11, 2020 3:00 PM
To: Zelinsky, Aaron (USAMD) <b6 per EOUSA>
Cc: Kravis, Jonathan (USADC) <b6 per EOUSA>; Marando, Michael (USADC) <b6 per EOUSA>; Jed, Adam (USADC) <b6 per EOUSA>
Subject: RE: Withdrawal

Duplicate per EOUSA



From: Zelinsky, Aaron (USAMD) <b6 per EOUSA>
Sent: Tuesday, February 11, 2020 2:59 PM
To: Cooney, Joseph (USADC) <b6 per EOUSA>
Cc: Kravis, Jonathan (USADC) <b6 per EOUSA>; Marando, Michael (USADC) <b6 per EOUSA>; Jed, Adam (USADC) <b6 per EOUSA>
Subject: Withdrawal

Duplicate per EOUSA



From: [Marando, Michael \(USADC\)](#)
To: [Cooney, Joseph \(USADC\)](#); [Kravis, Jonathan \(USADC\)](#)
Subject: Fwd: URGENT
Date: Tuesday, February 11, 2020 12:25:20 PM

FYI

Michael J. Marando
Assistant United States Attorney
(202) 252-7068

Begin forwarded message:

From: "Hsu, Spencer" <Spencer.Hsu@washpost.com>
Date: February 11, 2020 at 12:19:39 PM EST
To: "Marando, Michael (USADC)" <^{b6 per EOUSA} [REDACTED]>
Subject: URGENT

Hello Michael.

FYI, can I run these both by you please.

from a sr doj official: "The department was shocked to see the sentencing recommendation in the roger stone case last night. That recommendation is not what had been briefed to the department. The department finds the recommendation extreme and excessive and disproportionate to Stone's offenses. The department will clarify its position later today."

Also

Earlier

At least three of the four line prosecutors had prepared their letters to withdraw from the case, and that as soon as they presented their supervisors with said letters, DOJ assented to the higher sentencing recommendation. The impression/implicit message was there was fear about

response from Barr/Trump if recommendation was too high
and that this position came from a DAG downtown.

Best, Spencer

Spencer Hsu
The Washington Post
M: [REDACTED]
O: 202.334.7335

From: [Cooney, Joseph \(USADC\)](#)
To: [Evangelista, Alessio \(USADC\)](#); [Crabb, John D. \(USADC\)](#)
Subject: RE: Stone
Date: Tuesday, February 11, 2020 1:12:44 PM

I am reading it now.

b5



From: Evangelista, Alessio (USADC) <[\[REDACTED\]](#)>
Sent: Tuesday, February 11, 2020 1:09 PM
To: Cooney, Joseph (USADC) <[\[REDACTED\]](#)>; Crabb, John D. (USADC) <[\[REDACTED\]](#)>
Subject: RE: Stone

The post ran another article at 12:35.

https://www.washingtonpost.com/national-security/justice-dept-to-reduce-sentencing-recommendation-for-trump-associate-roger-stone-official-says-after-president-calls-it-unfair/2020/02/11/ad81fd36-4cf0-11ea-bf44-f5043eb3918a_story.html?itid=hp_hp-top-table-main_stone-1245pm%3Ahomepage%2Fstory-ans

From: Cooney, Joseph (USADC) <[\[REDACTED\]](#)>
Sent: Tuesday, February 11, 2020 1:07 PM
To: Crabb, John D. (USADC) <[\[REDACTED\]](#)>; Evangelista, Alessio (USADC) <[\[REDACTED\]](#)>
Subject: FW: Stone

Nothing different. Just wanted you to know I received one too. So did Marando.

From: Hsu, Spencer <Spencer.Hsu@washpost.com>
Sent: Tuesday, February 11, 2020 12:14 PM
To: Cooney, Joseph (USADC) <[\[REDACTED\]](#)>
Subject: Stone

Hello J.P.,

Fyi, can I run this by you please.

from a sr doj official: "The department was shocked to see the sentencing recommendation in the roger stone case last night. That recommendation is not what had been briefed to the department. The department finds the recommendation extreme and excessive and disproportionate to Stone's offenses. The department will clarify its position later today."

Also

Earlier

At least three of the four line prosecutors had prepared their letters to withdraw from the case, and that as soon as they presented their supervisors with said letters, DOJ assented to the higher sentencing recommendation. The impression/implicit message was there was fear about response from Barr/Trump if recommendation was too high and that this position came from a DAG downturn.

Best Spencer

b6 per EOUSA

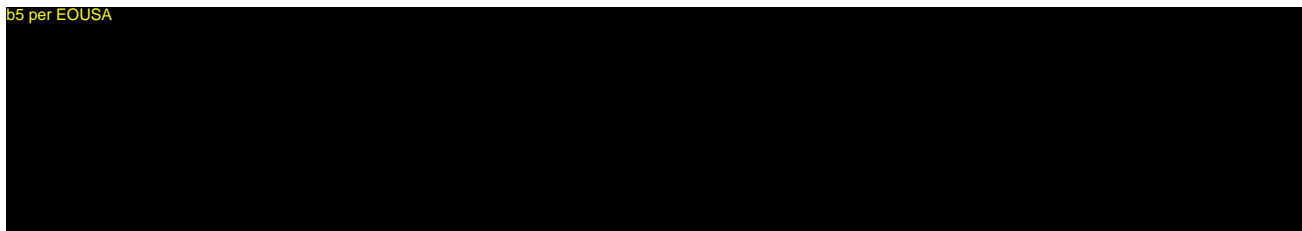
From: [Crabb, John D. \(USADC\)](#)
To: [Evangelista, Alessio \(USADC\)](#); [Cooney, Joseph \(USADC\)](#)
Subject: b5 per EOUSA
Date: Tuesday, February 11, 2020 8:13:03 AM

b5 per EOUSA



From: Evangelista, Alessio (USADC) <b6 per EOUSA>
Sent: Tuesday, February 11, 2020 7:41 AM
To: Cooney, Joseph (USADC) <b6 per EOUSA>
Cc: Crabb, John D. (USADC) <b6 per EOUSA>
Subject: b5 per EOUSA

b5 per EOUSA



Alessio D. Evangelista
Principal Assistant U.S. Attorney
District of Columbia
(202) 252-6620 (office)
b6 per EOUSA (cell)

On Feb 10, 2020, at 8:52 PM, Cooney, Joseph (USADC) <b6 per EOUSA> wrote:

b5 per EOUSA



J.P. Cooney
Chief
Fraud & Public Corruption Section
U.S. Attorney's Office for the District of Columbia
555 Fourth Street, NW (Fifth Floor)
Washington, D.C. 20001
Office: 202-252-7281
Cell: b6 per EOUSA

From: [Cooney, Joseph \(USADC\)](#)
To: [Evangelista, Alessio \(USADC\)](#); [Crabb, John D. \(USADC\)](#)
Subject: RE: Withdrawal
Date: Tuesday, February 11, 2020 3:23:48 PM

Yes. What about withdrawal? **b5 per EOUSA**

From: Evangelista, Alessio (USADC) <**b6 per EOUSA**>
Sent: Tuesday, February 11, 2020 3:21 PM
To: Crabb, John D. (USADC) <**b6 per EOUSA**>; Cooney, Joseph (USADC) <**b6 per EOUSA**>
Subject: RE: Withdrawal

b5 per EOUSA

From: Crabb, John D. (USADC) <**b6 per EOUSA**>
Sent: Tuesday, February 11, 2020 3:02 PM
To: Cooney, Joseph (USADC) <**b6 per EOUSA**>; Evangelista, Alessio (USADC) <**b6 per EOUSA**>
Subject: RE: Withdrawal

b5 per EOUSA

From: Cooney, Joseph (USADC) <**b6 per EOUSA**>
Sent: Tuesday, February 11, 2020 3:01 PM
To: Evangelista, Alessio (USADC) <**b6 per EOUSA**>; Crabb, John D. (USADC) <**b6 per EOUSA**>
Subject: FW: Withdrawal

From: Cooney, Joseph (USADC)
Sent: Tuesday, February 11, 2020 3:00 PM
To: Zelinsky, Aaron (USAMD) <**b6 per EOUSA**>
Cc: Kravis, Jonathan (USADC) <**b6 per EOUSA**>; Marando, Michael (USADC) <**b6 per EOUSA**>; Jed, Adam (USADC) <**b6 per EOUSA**>
Subject: RE: Withdrawal

Duplicate per EOUSA

From: Zelinsky, Aaron (USAMD) <**b6 per EOUSA**>
Sent: Tuesday, February 11, 2020 2:59 PM
To: Cooney, Joseph (USADC) <**b6 per EOUSA**>
Cc: Kravis, Jonathan (USADC) <**b6 per EOUSA**>; Marando, Michael (USADC)

From: [Evangelista, Alessio \(USADC\)](#)
To: [Cooney, Joseph \(USADC\)](#); [Crabb, John D. \(USADC\)](#)
Cc: [Metcalf, David \(USADC\)](#)
Subject: Stone's Sentencing Memo
Date: Tuesday, February 11, 2020 10:20:47 AM

Will you please forward Stone's sentencing memo. Thanks.

Alessio D. Evangelista
Principal Assistant United States Attorney
District of Columbia
(202) 252-6620 (office)
b6 per EOUSA (cell)

From: DCD_ECFNotice@dcd.uscourts.gov
To: DCD_ECFNotice@dcd.uscourts.gov
Bcc: [Crabb, John D. \(USADC\)](mailto:Crabb, John D. (USADC))
Subject: Activity in Case 1:19-cr-00018-ABJ USA v. STONE Notice of Withdrawal of Appearance by Assistant U.S. Attorney
Date: Tuesday, February 11, 2020 4:39:24 PM

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.

*****NOTE TO PUBLIC ACCESS USERS*** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.**

U.S. District Court

District of Columbia

Notice of Electronic Filing

The following transaction was entered by Jed, Adam on 2/11/2020 at 4:37 PM EDT and filed on 2/11/2020

Case Name: USA v. STONE
Case Number: [1:19-cr-00018-ABJ](#)
Filer: USA
Document Number: [285](#)

Docket Text:

NOTICE OF WITHDRAWAL OF APPEARANCE by USA as to ROGER JASON STONE, JR (Jed, Adam)

1:19-cr-00018-ABJ-1 Notice has been electronically mailed to:

Aaron Simcha Jon Zelinsky

b6 per EOUSA

Adam C. Jed

b6 per EOUSA

Bruce S. Rogow

b6 per EOUSA

Grant J. Smith

John Crabb, Jr

b6 per EOUSA

USADC.CriminalDocket@usdoj.gov, usadc.ecffraud@usdoj.gov, usadc.ecfnatsec@usdoj.gov

L. Peter Farkas

b6 per EOUSA

Marc Erik Elias

DocketWDC@PerkinsCoie.com

Michael John Marando

b6 per EOUSA

b6 per EOUSA

, caseview.ecf@usdoj.gov, usadc.criminaldocket@usdoj.gov,
usadc.ecffraud@usdoj.gov

Robert C Buschel

b6 per EOUSA

Tara A. Campion

Uzoma Nkwonta

1:19-cr-00018-ABJ-1 Notice will be delivered by other means to::

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:suppressed

Electronic document Stamp:

[STAMP dcecfStamp_ID=973800458 [Date=2/11/2020] [FileNumber=6417197-0]
[176f5d8ebd06efdf42e3f2268f1b0473c83a9212da582537ca84a82e124236245677
07606bae5776f5b9c767cef0b00c209045abd2eac31f254458d1fd6aa53f]]

From: b6 per EOUSA
To: [Crabb, John D. \(USADC\)](#)
Subject: Alas
Date: Tuesday, February 11, 2020 6:37:12 PM
Importance: High

There goes impartial justice for all when a president's Tweet gets an immediate response like the memo you signed and submitted today. For shame.

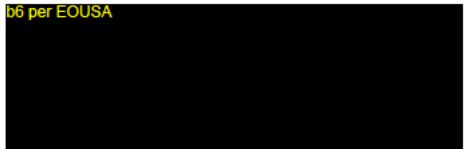
From: [Rachel Brill](#)
To: [Crabb, John D. \(USADC\)](#)
Cc: [Steven Brill](#)
Subject: Fwd: USA v. Roger Stone
Date: Tuesday, February 11, 2020 5:50:54 PM
Attachments: [image001.png](#)
[image002.png](#)

Mr. Crabb -



- *Rachel Brill*

Rachel Brill



----- Forwarded message -----

From: Steven Brill ^{b6 per EOUSA}
Date: Tue, Feb 11, 2020 at 6:43 PM
Subject: USA v. Roger Stone
To: ^{b6 per EOUSA}
Cc: Rachel Brill ^{b6 per EOUSA}

Dear Mr. Crabb –

I am a criminal defense attorney who has been practicing over 25 years in New York City. The bulk of my practice is located in the SDNY and EDNY. Like me, you are on the front lines of the criminal justice system and play an integral part in how the system operates and in maintaining the integrity and respect it requires. I am writing to you as a colleague and as a fellow citizen.

The chain of events surrounding the government’s position regarding Roger Stone’s sentencing presents an appearance of such impropriety that has shaken me to my core.

The appearance of blatant interference by the President cannot be starker. It is hard to view this chain of events as anything other than a corrupt President imposing his own personal and political whims on DOJ's sentencing position when it comes to Mr. Stone. With this dramatic shift in DOJ position, you have sent a message that the DOJ is not only corruptible, but that the rule of law is only as strong as the desires of the White House.

As a lawyer, I deeply fear the perilous effect that these statements and actions have on the rule of law – a profession to which I dedicated my professional life. As a citizen, I fear for the direction of my Country that I love dearly.

The decision you have made to sign off on the Amended Sentencing Submission strikes me as a career defining moment for you, and one that is very likely to tarnish your practice and reputation moving forward.

However, you still have great power. You can thwart this downward and dangerous spiral. You can stand in the way of improper interference from the White House. You can speak out against improper internal pressure forcing you to do what you know is not legally or morally right.

I beg you to do so for the sake of our profession, our rule of law, and our Country.

Thank you for reading.



Steven Brill, Partner

115 Broadway, Suite 1704

New York, New York 10006

P: 212-566-1000 | Direct Dial: [REDACTED] b6 per EOUSA

www.sbcriminallawyers.com

Notice: This communication, including attachments, may contain information that is confidential and protected by the attorney/client or other privileges. It constitutes non-public information intended to be conveyed only to the designated recipient(s). If the reader or recipient of this communication is not the intended recipient, an employee or agent of the intended recipient who is responsible for delivering it to the intended recipient, or you believe that you have received this communication in error, please notify the sender immediately by return e-mail and promptly delete this e-mail, including attachments without reading or saving them in any manner. The unauthorized use, dissemination, distribution, or reproduction of this e-mail, including attachments, is prohibited and may be unlawful. Receipt by anyone other than the intended recipient(s) is not a waiver of any attorney/client or other privilege.

From: [Metcalf, David \(USADC\)](#)
To: [Cooney, Joseph \(USADC\)](#); [Evangelista, Alessio \(USADC\)](#); [Crabb, John D. \(USADC\)](#)
Subject: RE: Stone sentencing memo
Date: Monday, February 10, 2020 4:25:50 PM

Thanks

From: Cooney, Joseph (USADC) **b6 per EOUSA**
Sent: Monday, February 10, 2020 4:26 PM
To: Metcalf, David (USADC) **b6 per EOUSA**; Evangelista, Alessio (USADC) **b6 per EOUSA**; Crabb, John D. (USADC) **b6 per EOUSA**
Subject: FW: Stone sentencing memo

From: Kravis, Jonathan (USADC) **b6**
Sent: Monday, February 10, 2020 4:22 PM
To: Cooney, Joseph (USADC) **b6**; Crabb, John D. (USADC) **b6**; Evangelista, Alessio (USADC) **b6**
Cc: Jed, Adam (USADC) **b6**; Marando, Michael (USADC) **b6**; Zelinsky, Aaron (USAMD) **b6**
Subject: Stone sentencing memo

Duplicate per EOUSA



From: [Crabb, John D. \(USADC\)](#)
To: [Cooney, Joseph \(USADC\)](#)
Subject: Re: Stone
Date: Monday, February 10, 2020 10:19:20 PM

Thanks

> On Feb 10, 2020, at 10:16 PM, Cooney, Joseph (USADC) [b6 per EOUSA](#) wrote:
>
>
>
> -----Original Message-----
> From: Crabb, John D. (USADC) <[b6 per EOUSA](#)>
> Sent: Monday, February 10, 2020 10:09 PM
> To: Cooney, Joseph (USADC) [b6 per EOUSA](#)
> Subject: Stone
>
> Can you send me the filed version. Thanks.
> <StoneSentencingMemo.Final.pdf>

From: [Cooney, Joseph \(USADC\)](#)
To: [Crabb, John D. \(USADC\)](#)
Subject: RE: Stone
Date: Monday, February 10, 2020 10:16:14 PM
Attachments: [StoneSentencingMemo.Final.pdf](#)

-----Original Message-----

From: Crabb, John D. (USADC) b6 [REDACTED]
Sent: Monday, February 10, 2020 10:09 PM
To: Cooney, Joseph (USADC) b6 [REDACTED]
Subject: Stone

Duplicate per EOUSA [REDACTED]

From: [Crabb, John D. \(USADC\)](#)
To: [Evangelista, Alessio \(USADC\)](#); [Cooney, Joseph \(USADC\)](#)
Cc: [Metcalf, David \(USADC\)](#)
Subject: RE: Stone's Sentencing Memo
Date: Tuesday, February 11, 2020 10:23:52 AM
Attachments: [Def Sent Memo.pdf](#)

From: Evangelista, Alessio (USADC) [b6 per EOUSA]
Sent: Tuesday, February 11, 2020 10:21 AM
To: Cooney, Joseph (USADC) [b6 per EOUSA]; Crabb, John D. (USADC)
[b6 per EOUSA]
Cc: Metcalf, David (USADC) [b6 per EOUSA]
Subject: Stone's Sentencing Memo

Duplicate per EOUSA



**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

Case 1:19-cr-00018-ABJ

UNITED STATES OF AMERICA,

v.

ROGER J. STONE, JR.,

Defendant.

**DEFENDANT ROGER STONE'S SENTENCING MEMORANDUM AND
MOTION FOR VARIANCE FROM ADVISORY GUIDELINES**

TABLE OF CONTENTS

TABLE OF AUTHORITIES iv

INTRODUCTION 1

I. THE COURT SHOULD FIND THAT STONE’S TOTAL GUIDELINES OFFENSE LEVEL IS 14 2

 A. An Eight Level Increase for Threatening Physical Injury or Property Damage (§ 2J1.2(b)(1)(B)) Is Unjustified 2

 B. A Three Level Increase for Substantial Interference with the Administration of Justice (§ 2J1.2(b)(2)) Is Unjustified 5

 C. A Two-Level Increase for Obstruction of Justice (§ 3C1.1) Is Unjustified 11

 D. A Two Level Increase for Conduct Extensive in Scope, Planning, or Preparation (§ 2J1.2(b)(3)(C)) Is Unjustified. 14

II. THE 18 U.S.C. §3553(a) FACTORS FAVOR A SENTENCE BELOW THE ADVISORY RANGE OF 15-21 MONTHS IMPRISONMENT. 15

 A. The Nature and Circumstances of the Offense Favor a Sentence Below the Advisory Guidelines Range. 17

 B. The History and Characteristics of the Defendant Favor a Sentence Below the Advisory Guidelines Range. 19

 C. The Need for the Sentence to Reflect the Seriousness of the Offense, to Serve as a Deterrent, and to Provide Medical Care in the Most Effective Manner Warrant a Sentence Below the Advisory Guidelines Range. 21

 1. A Non-Guidelines Sentence Would Adequately Reflect the Seriousness of the Offense and Promote Respect for the Law. 21

 2. A Non-Guidelines Sentence Would Provide an Adequate General and Specific Deterrent..... 23

 3. A Non-Guidelines Sentence Would Provide Medical Care in the Most Effective Manner. 24

 D. The Kinds of Sentences Available..... 25

 E. The Need to Avoid Unwarranted Disparities Favors a Non-Guidelines Sentence. 26

CONCLUSION.....27

CERTIFICATE OF SERVICE29

TABLE OF AUTHORITIES

Cases

Kimbrough v. United States,
552 U.S. 85 (2007).....2, 16

Koon v. United States,
518 U.S. 81 (1996).....16, 17

Pepper v. United States,
562 U.S. 476 (2011).....16

Rita v. United States,
551 U.S. 338 (2007).....16

Spears v. United States,
555 U.S. 261 (2009).....16

United States v. Autery,
555 F.3d 864 (9th Cir. 2009)23, 24

United States v. Bender,
927 F.3d 1031 (8th Cir. 2019)4

United States v. Booker,
543 U.S. 220 (2005).....2, 16, 24, 25

United States v. Brooke,
308 F.3d 17 (D.C. Cir. 2002).....24, 25

United States v. Bullion,
466 F.3d 574 (7th Cir. 2006)24

United States v. Calvert,
511 F.3d 1237 (9th Cir. 2008)3, 4, 5, 12

United States v. Cataldo,
171 F.3d 1316 (11th Cir. 1999)7

United States v. Chase,
367 Fed. Appx. 979 (11th Cir. 2010).....24

United States v. Davis,
458 F.3d 491 (6th Cir.2006)25

United States v. Denham,
436 Fed. App’x 627 (6th Cir. 2011)4

United States v. Duarte,
28 F.3d 47 (7th Cir. 1994)3

United States v. Gall,
128 S. Ct. 586 (2007).....2, 16

United States v. Gupta,
904 F. Supp. 2d 349 (S.D.N.Y. 2012).....22

United States v. Hayes,
358 Fed. App’x 685 (7th Cir. 2009)14

United States v. Irej,
612 F.3d 1160 (11th Cir. 2010)25

United States v. Jensen,
248 Fed. App’x 849 (10th Cir. 2007)14

United States v. Lee,
454 F.3d 836 (8th Cir.2006)25

United States v. Makki,
47 F. Supp. 2d 25 (D.D.C. 1999)13

United States v. Mallory,
525 F. Supp. 2d 1316 (S.D. Fla. 2007)6, 9

United States v. McSherry,
226 F.3d 153 (2d Cir. 2000).....7, 11

United States v. Newman,
614 F.3d 1232 (11th Cir. 2010)14

United States v. Petruk,
836 F.3d 974 (8th Cir. 2016)14, 15

United States v. Powell,
576 F.3d 482 (7th Cir. 2009)25

United States v. Rodriguez,
499 Fed. App’x 904 (11th Cir. 2012)14, 15

United States v. Sanchez,
676 F.3d 627 (8th Cir. 2012)4

United States v. Serfass,
684 F.3d 548 (5th Cir. 2012)4, 5

United States v. Simmons,
470 F.3d 1115 (5th Cir. 2006)25

United States v. Smith,
445 F.3d 1 (1st Cir.2006).....25

United States v. Stumpner,
174 Fed. App’x 522 (11th Cir. 2006) (unpublished)24, 25

United States v. Tomko,
562 F.3d 558 (3d Cir. 2009).....23, 24

United States v. Weissman,
22 F. Supp. 2d 187 (S.D.N.Y. 1998).....5, 6

Additional Sources

United States Sentencing Commission, Measuring Recidivism Among Federal Offenders: A Comprehensive Overview (March 2016), available at:
https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2016/recidivism_overview.pdf
.....24

**DEFENDANT ROGER STONE’S SENTENCING MEMORANDUM AND
MOTION FOR VARIANCE FROM ADVISORY GUIDELINES**

Defendant, Roger J. Stone, Jr., files this Sentencing Memorandum, pursuant to 18 U.S.C. § 3553 and 18 U.S.C. § 3661, in advance of his sentencing, which is scheduled for February 20, 2020.

INTRODUCTION

Roger Stone stands before the Court for sentencing, having been convicted by a jury of Count I, Obstruction of Proceeding (18 U.S.C. § 1505); Counts II – VI, False Statements (18 U.S.C. § 1001(a)(2)); and Count VII, Witness Tampering (18 U.S.C. § 1512(b)(1)).

Stone, United States Probation, and the Government agree that, under the United States Sentencing Guidelines, the offenses of conviction are grouped, pursuant to U.S.S.G. § 3D1.2(b), and that the controlling guideline is U.S.S.G. § 2J1.2. The parties further agree that the base offense level is 14, which, for Stone, who the parties agree is in Criminal History Category I, has a corresponding advisory range of imprisonment of 15-21 months.

Probation and the Government, however, incorrectly maintain that the following offense level increases are applicable:

Specific Offense Characteristics	U.S.S.G. §2J1.2(b)(1)(B)	8 level increase	¶76 ¹
Specific Offense Characteristics	U.S.S.G. §2J1.2(b)(1)(2)	3 level increase	¶77
Obstruction of Justice	U.S.S.G. §3C1.1	2 level increase	¶80
Obstruction of Justice ²	U.S.S.G. §2J1.2(b)(3)(C)	2 level increase	¶77

¹ Paragraph references are to the Presentence Investigation Report, dated January 16, 2020, (“PSR”). [Dkt. #272].

² Government’s Objection to Presentence Investigation Report, dated January 30, 2020.

For the reasons set forth below, Stone maintains that the total offense level is 14 and that the 15 offense-level increases for which Probation and the Government advocate are inapplicable under the law and the facts of this case. Accordingly, Stone submits that the Court should find that his total offense level is 14 with a corresponding range of imprisonment of 15-21 months. Stone further respectfully submits that a sentence below the advisory Guidelines range of 15-21 months would be “sufficient but not greater than necessary to comply with the purposes of sentencing.” 18 U.S.C. § 3553(a); *See Kimbrough v. United States*, 552 U.S. 85 (2007); *Gall v. United States*, 552 U.S. 38 (2007); *United States v. Booker*, 543 U.S. 220, 125, S. Ct. 738, 765, 160 L. Ed. 2d 621 (2005).

In the sections that follow, we address (a) the calculation of the sentencing Guidelines and the reasons that the offense level increases that Probation and the Government seek are inapplicable (the offense conduct is discussed as relevant throughout this section); and (b) the factors under 18 U.S.C. § 3553(a) that warrant a downward variance from the applicable Guidelines range of 15-21 months imprisonment.

I. The Court Should Find that Stone’s Total Guidelines Offense Level is 14.

As noted above, the parties agree that, pursuant to U.S.S.G. § 3D1.2, the seven counts of conviction constitute a single group and that § 2J1.2 is the applicable guideline, which has a base offense level of 14. For the reasons discussed below, the facts of this case do not warrant the application of any offense level increases.

A. An Eight Level Increase for Threatening Physical Injury or Property Damage (§ 2J1.2(b)(1)(B)) Is Unjustified.

An eight-level increase, pursuant to U.S.S.G. § 2J1.2(b)(1)(B), is inapplicable here because Roger Stone did not threaten to physically injure Randy Credico or damage Credico’s property, in the manner contemplated by the guideline and relevant case law.

United States Sentencing Guidelines § 2J1.2(b)(1)(B) provides “[i]f the offense involved causing or threatening physical injury to a person, or property damage, in order to obstruct the administration of justice, increase by 8 levels.” The function of § 2J1.2(b)(1) is “to distinguish threats of physical injury or property damage from lesser threats.” *United States v. Duarte*, 28 F.3d 47 (7th Cir. 1994). The eight-level increase does not apply to the facts here, because, as explained in *United States v. Calvert*, 511 F.3d 1237 (9th Cir. 2008), the increase is applicable in only those cases that involve more serious forms of obstruction:

[I]t must not be forgotten that for the eight-level enhancement to apply, the Guideline requires that the intent to retaliate have been carried out in a particular manner; The defendant must have caused or threatened to cause property damage or physical injury to the witness. Trivial retaliatory acts will not do; the enhancement is reserved for serious acts used “as a means of intimidation.” U.S.S.G. §2J1.2 cmt. application note 5. This point is picked up by the Guideline’s commentary that “[t]he specific offense characteristics [found in section 2J1.2(b)(1)-(2)] reflect the *more serious forms of obstruction*.” U.S.S.G. §2J.1 cmt. background (emphasis added). Indeed, even this “serious form” of obstruction captured in §2J1.2(b)(1) is considered a floor, as the Guideline’s application notes reference the possibility for a further upward departure “[i]f a weapon was used, or bodily injury or significant property damage resulted.” U.S.S.G. §2J1.2 cmt. application note 4.

Id. at 1242 (9th Cir. 2008) (emphasis in original).

Randy Credico made it clear, in both a post-trial letter to the Court and in his trial testimony that he did not consider anything that Stone said to constitute a threat. In his letter to the Court for consideration at sentencing, Credico wrote: “*I never in any way felt that Stone himself posed a direct physical threat to me or to my dog. I chalked up his bellicose tirades to ‘Stone being Stone.’ All bark and no bite!*” [Dkt. #273] (emphasis supplied).

Similarly, his trial testimony makes plain that there can be no serious dispute as to the fact that Roger Stone did not threaten Credico’s dog:

I think [Stone] loves all dogs, I don't think [Stone] would steal a dog, no. . . . dog lovers like dogs, you know what I mean? . . . I don't think [Stone] was going to steal the dog, no, I don't. . . . I know [Stone] would have never touched that dog. All right? So it was hyperbole by [Stone].

TT 795:11 – 796:16. Plainly conceding the point, the Government, thereafter, dropped any reference to Credico's dog in its arguments to the jury.

The facts of this case are also readily distinguishable from cases involving real threats of the kind that the guideline is intended to address. Indeed, this is not *Calvert, supra*, (shooting an elderly witness in the stomach as revenge for his testimony); nor is it *United States v. Bender*, 927 F.3d 1031, 1032 (8th Cir. 2019) (instructing inmates in another prison to “smash” witnesses); or *United States v. Sanchez*, 676 F.3d 627, 629 (8th Cir. 2012) (witness's husband confronted and asked “Where's [your wife]?,” “What would you think that [*sic*] if one of your children were killed?” “What would you think if something happened to [your brother]?”); and this is most certainly not *United States v. Denham*, 436 Fed. App'x 627 (6th Cir. 2011), where the following chilling threats of unmistakable physical harm were delivered to the witness:

You know what happens to rats? You think you're safe? Huh? Do you really think you're safe? You'll be found. Judy is fifty-five years fuck old, do you know that? You mother fuckers are dead. You're dead. Do you understand me? You're dead. Do you hear that? You're fucking dead. And you won't know where it's coming from. Next thing you know you'll be fucking laying with your God-damn hands cut off.

Id. at 627.

Stone's indecorous conversations with Randy Credico were many things, but here, in the circumstances of this nearly 20-year relationship between eccentric men, where crude language was the norm, “prepare to die cocksucker” and conversations of similar ilk, were not threats of physical harm, “serious acts” used as a means of intimidation, or “the more serious forms of

obstruction” contemplated by the Guidelines. *Calvert, supra*; U.S.S.G. § 2J1.2 cmt.; *United States v. Serfass*, 684 F.3d 548, 550 (5th Cir. 2012) (taking consideration of the record as a whole when determining applicability of level enhancements). Stone and Credico engaged in an ongoing dialogue in which each used harsh language as a matter of course and it was understood between them that, as Credico put it, it was “all bark and no bite.”

Consequently, we respectfully submit that the Court should find that an eight-level increase under § 2J1.2(b)(1)(B) is inapplicable in the instant matter.

B. A Three Level Increase for Substantial Interference with the Administration of Justice (§ 2J1.2(b)(2)) Is Unjustified.

A three-level increase, pursuant to U.S.S.G. § 2J1.2(b)(2) is inapplicable here because (1) Stone’s testimony before, and conduct in connection with, the House Permanent Select Committee on Intelligence (“HPSCI”) falls outside the scope of the guideline; (2) there has been no showing that Stone’s testimony or conduct caused the unnecessary expenditure of substantial governmental or court resources; and (3) even were Stone’s testimony and other conduct within the scope of the guideline, it did not cause substantial interference with the administration of justice.

The plain language of the commentary to the guideline makes clear that this offense level increase is unwarranted here:

“Substantial interference with the administration of justice” includes a premature or improper termination of a felony investigation; an indictment, verdict, or any judicial determination based upon perjury, false testimony, or other false evidence; or the unnecessary expenditure of substantial governmental or court resources.

U.S.S.G. § 2J1.2 cmt. 1. Accordingly, the court in *United States v. Weissman*, 22 F. Supp. 2d 187, 194 (S.D.N.Y. 1998), found that—absent a finding that the conduct caused the unnecessary expenditure of substantial governmental or court resources—the offense level increase does not apply to testimony before Congress:

Because Weissman’s conduct occurred within the context of a congressional inquiry, rather than a criminal investigation or a judicial proceeding, the only circumstance specified in the Application Notes pertinent to the case at bar is “the unnecessary expenditure of substantial governmental or court resources.”

Weissman, 22 F. Supp. 2d at 194.

Thus, here, as in *Weissman*, because Stone’s testimony and conduct occurred in the context of a congressional investigation, and not a criminal investigation or judicial proceeding, the offense level increase under § 2J1.2(b)(2) is unwarranted. Consequently, given that neither Probation nor the government has offered any evidence, or even suggested, that Stone’s conduct caused the unnecessary expenditure of substantial government or court resources, there is no basis to apply an increase under this section in Stone’s Guidelines calculation.

Moreover, even were Stone’s actions within the scope of the guideline—and they are not—there is no basis to support a conclusion that they “resulted in substantial interference with the administration of justice” warranting a three level increase, pursuant to U.S.S.G. § 2J1.2(b)(2). Indeed, to find that conduct caused “substantial” interference, the conduct in question must have had an impact of real importance or considerable value, and its impact must not be speculative, imaginary, or illusive:

The Application Notes for §§ 2J1.2(b)(2) [] do[es] not define the term “substantial.” Therefore, the Court will ascribe to the term its “ordinary or natural meaning.” . . . Black’s Law Dictionary defines substantial as “[o]f real importance; of considerable value; valuable. Something worthwhile as distinguished from something without value or merely nominal.” Black’s Law Dictionary 1428 (6th ed.1990). In Webster’s Third New International Dictionary substantial is defined as “(c) of substance, real, not imaginary or illusive.” Webster’s Third New International Dictionary 2280 (Merriam Webster 1981).

United States v. Mallory, 525 F. Supp. 2d 1316, 1319 (S.D. Fla. 2007).

“Courts must not speculate concerning the existence of a fact which would permit a more severe sentence under the guidelines.” *United States v. Cataldo*, 171 F.3d 1316, 1321 (11th Cir. 1999) (internal citations omitted). Speculation is defined as “the practice or an instance of theorizing about matters over which there is no certain knowledge” (Black’s Law Dictionary, 11th ed. 2019); “the contemplation or consideration of some subject” (Dictionary.com); “ideas or guesses about something that is not known.” (Merriam-Webster, 2019). See *United States v. McSherry*, 226 F.3d 153, 157-158 (2d Cir. 2000) (“In the absence of persuasive reasons to the contrary, terms in the Guidelines are given their ordinary meanings.”).

Here, Probation offers a rationale for the application of this offense level increase that is purely speculative and which is, therefore, deficient.³ In the PSR, Probation states that “[i]n this case, the defendant’s obstruction of justice and witness tampering caused HPSCI to release a report on its investigation into Russian interference in the 2016 election which was erroneous and lacked valuable information which would have been provided by witnesses who chose not to testify.” PSR ¶ 77. This statement is unreliable, non-specific, and too speculative to satisfy the requisite burden of proof. *Cataldo*, 171 F.3d at 1321.

It is speculation that HPSCI’s Report on Russian Active Measures, released March 22, 2018, is “erroneous.” To the contrary, the “Report of the Select Committee on Intelligence United States Senate on Russian Active Measures Campaigns and Interference in the 2016 U.S. Election,”

³ In its Receipt and Acknowledgement of the PSR, the government adopted Probation’s findings without elaboration. The government did, however, claim to reserve the right to make additional arguments in its sentencing submission regarding the Guidelines. Should the government submit any rationale for the Guidelines calculations beyond those identified in the PSR and the government’s objections to the PSR, Stone respectfully requests that the Court provide ample opportunity to prepare a written response. The government’s unilateral reservation of a right to offer additional justifications for the Guidelines calculation should not be permitted to undercut Stone’s right to a full and fair opportunity to address these critical issues in advance of sentencing.

Volumes 1 and 2, and the Special Counsel’s “Report on the Investigation Into Russian Interference in the 2016 Presidential Election,” Volumes I and II, made findings consistent with those found in the publicly available, redacted HPSCI Report. In other words, even had Stone testified differently and even had Credico testified before HPSCI, the conclusions drawn in its report would not have been materially different.

Thus, Probation’s claim that the HPSCI Report “lacked valuable information which would have been provided by witnesses who chose not to testify” (PSR ¶77) grossly overstates the importance and significance of Roger Stone (and Randy Credico). The HPSCI Report states “[s]ix of the witnesses the Committee requested to interview invoked their Fifth amendment protections from self-incrimination, which resulted in the Committee not being able to obtain pertinent information from those particular individuals” (Report, Appendix A – Scope and Methodology, p. 131). Of those six witnesses, only Credico is at issue here and the record is clear that any claim that any effort by Stone to dissuade Credico from appearing before HPSCI substantially interfered with the administration of justice is untenable because Credico knew nothing pertinent to the investigation.

First, over a two-year time period, at least five government entities conducted investigations into Russian interference in the 2016 election. Before it was over, Randy Credico testified before the Grand Jury in the Special Counsel’s investigation; was interviewed by the Federal Bureau of Investigations six times; and produced documents in response to subpoenas that include his Facebook messages, his Signal messages, his text messages, and several email accounts. In the end, Credico was mentioned on five pages of the Special Counsel’s Report, not mentioned in either volume of the Senate Intelligence Report, and not mentioned at all in the

HPSCI Majority Report. He was mentioned on two pages of the HPSCI Minority Report, where they noted that Stone identified Credico to the Committee.

Thus, the record is clear that if Credico had testified before HPSCI, he would have made the same claim to the Committee as he did to the FBI, the Office of Special Counsel, the Grand Jury, and this Court: He was not an intermediary for Roger Stone and did not know anything about Julian Assange or WikiLeaks *vis a vis* Russian interference with the election. Whatever information HPSCI may have been provided had Credico testified before it can hardly be considered valuable, much less substantial, *i.e.*, “important,” “of considerable value,” “distinguished from something . . . merely nominal,” “of substance, real, not imaginary or illusive.” *See, Mallory, supra*, at 6. To say otherwise is mere conjecture and to increase Stone’s offense level based on such speculation would be error.

Second, Credico, in his testimony and other statements (both public and private) has made clear that, regardless of Stone, Credico had no intention of testifying before HPSCI:

- I’m a journalist. I’m not speaking in front of the committee.
- I have first amendment protection.
- If they want to cite me for a contempt that’s fine but the bigger picture is [] to protect freedom of the press.
- I will not be talking to them
- For the last 2 years I’ve been a journalist at WBAI and I have First Amendment protections
- You can trust me on behalf of the First Amendment that many people died to protect none of whom sit on that committee I will be willing to be cited for contempt and spend a few months in jail
- Rest assured I will not communicate with the house Intel committee about any of my communications with anybody because I am protected by the First Amendment
- I’ve already got 10 lawyers who were working on it

Government Exhibit 065. In addition, Credico was represented by counsel who responded on his behalf to the HPSCI subpoena and asserted his Fifth Amendment protections. Letter from Martin

Stolar, Esq., dated December 12, 2017, to HPSCI. At trial, Credico testified regarding invoking his Fifth Amendment rights this way during direct examination:

Q: Did you write a message to Mr. Stone about lawyers wanting you to take the Fifth?

A. Yes.

Q. Did you receive some advice from people telling you you should take the Fifth?

A. Some lawyers told me to take the Fifth and some lawyers told me to not take the Fifth.

Q. And was Mr. Stone a reason for you taking the Fifth?

A. He's one of many reasons why I took the Fifth. You know, what - - I finally did, but there's a thousand reasons why I took the Fifth. I got advice from him.

TT 707:19 – 708:6.

On cross examination, he further testified:

Q. So, without saying, Mr. Credico, what your lawyer said to you, did you authorize your lawyer to write a letter to the House Intelligence Committee, invoking your Fifth Amendment right?

A. Yes, I did.

Q. In fact, you publicly have stated one of the reasons why you asserted your Fifth Amendment is that you thought the House investigation was a witch hunt?

A. Yes.

Q. And in addition to consulting with lawyers and many people, you've consulted with Betsy Woodruff, a journalist.

A. I talked to her about it, yes. I talked to a lot of people about it. I didn't ask her for advice.

Q. And, in fact, you publicly have stated that you have said so many versions of the events, that it was in your best interest to take the Fifth Amendment.

A. Well, somebody said that when I was on *The Intercept* radio show, that - - you know, best that you take; that was one person.

People had - - I was encouraged by other people to take - - to go out and say [assert 5th Amendment], otherwise I was going to have this being held over my head for a long time, even if, in fact, you know, there was the deal. David Corn had put something out. This is suspicious that Credico took the Fifth.

I didn't want that out there. So, I knew there was going to be some kind of repercussions by taking the Fifth Amendment. Even though you have the right to do it, people do speculate, they extrapolate - -

TT 781:25 – 783:4.

Accordingly, “there is not basis under Guideline[] § 2J1.2(b)(2) to increase those levels for attenuated consequences that (if they occurred) did not result from the charged conduct.” *United States v. McSherry*, 226 F.3d 153, 159 (2d Cir. 2000).

There is, therefore, no factual basis for an offense level increase pursuant to U.S.S.G. § 2J1.2(b)(2). Any harm caused by the conduct that forms the basis for Stone's convictions for obstruction of justice and witness tampering are adequately reflected in the guideline's base offense level.

C. A Two-Level Increase for Obstruction of Justice (§ 3C1.1) Is Unjustified.

An offense level increase, pursuant to U.S.S.G. § 3C1.1, for obstruction of justice is inapplicable, given that Stone did not “willfully obstruct[], impede[], or attempt[] to obstruct or impede, the administration of justice with respect to the investigation, prosecution, or sentencing of the instant offense of conviction” *Id.* Such an adjustment “is not to be applied to the offense level for [obstruction of justice] except if a significant further obstruction occurred” during the prosecution. § 3C1.1, Note 7. “[The Guidelines’] commentary is generally authoritative unless it violates the Constitution or a federal statute, or is inconsistent with, or a plainly erroneous

reading of, that guideline” (internal quotation marks omitted).” *United States v. Calvert*, 511 F.3d 1237, 1245 (9th Cir. 2008).

For the reasons discussed below, the litany of conduct outlined in the PSR did not cause significant, further obstructions of the prosecution of this case. Those issues ceased well before the trial began, were contemporaneously managed by the Court, and had no impact on the jury. In fact, the Court repeatedly found during jury selection that, despite general knowledge among the jury pool regarding the circumstances of this case, there was an ample pool of qualified jurors who were not rendered biased by the publicly available information about the case.

The facts relevant to this issue are as follows: On February 21, 2019, after some questionable posts on social media contrary to the Court’s standing “gag” order, the Court held a hearing to address Stone’s most recent misstep. Stone testified during the hearing and the Court heard argument from counsel. At the close of the hearing, the Court issued a ruling prohibiting Stone from any further discussion about “the Special Counsel’s investigation or this case or any of the participants in the investigation of the case.” Shortly thereafter, upon realizing there may be a possible conflict with the Court’s February 21 order, Defense counsel filed a Motion to Clarify.

As the Motion explained, Stone had numerous attorneys representing his various interests in the early part of 2019, as well as in 2018, when he first wrote an Introduction to a book titled “The Myth of Russian Collusion.” It was also in 2018 that the business transaction with the publisher occurred. Unfortunately, the existence of the book’s Introduction was known by certain defense counsel and not by others. It was not until after the February 21, 2019 court hearing that the import of the Introduction was realized. As far as the statements in the Motion to Clarify are concerned, Stone did not willfully obstruct the proceedings, as this was error on the part of defense

counsel. Furthermore, counsels' use of "imminent" was an oversight and should not have been included. The Motion to Clarify was, however, filed in good faith and should not, in any case, negatively affect Stone.

In addition, Stone did obtain the advice of counsel prior to commenting that "Mr. Cohen's statement is not true." Defense counsel did not specifically recall Stone's February 27 email request for guidance during the July 16, 2019 hearing. Counsel, however, affirms that a review of relevant communications reflects that the comment was approved. It is, therefore, submitted that defense counsel's lack of recall at the July hearing should not be held against Stone.

Furthermore, as was made plain during the relevant proceedings, the conduct in question resulted in large measure from the exacerbation of a longstanding battle with anxiety that was heightened during the pendency of this action, which Stone subsequently corrected with therapeutic treatment. This fact cuts against a finding that the conduct was designed to have a significant obstructive effect and, therefore, weighs against a finding that the conduct at issue warrants an offense level increase under the § 3C1.1.

With respect to the Court's Minute Order dated February 3, 2020, it is respectfully submitted that following the proceedings discussed above, Stone has complied with the Court's orders and conditions of release.

Accordingly, it is respectfully submitted that none of the identified conduct was material or supports the contention that Stone acted purposely to obstruct the proceedings. *See United States v. Makki*, 47 F. Supp. 2d 25, 29 (D.D.C. 1999).

D. A Two Level Increase for Conduct Extensive in Scope, Planning, or Preparation (§ 2J1.2(b)(3)(C)) Is Unjustified.

A two level increase, pursuant to § 2J1.2(b)(3)(C), is unjustified because Stone’s conduct does not rise to the requisite level of “extensive in scope, planning, or preparation.” “[D]uration of [an] offense is not equivalent to its ‘scope’ for purposes of § 2J1.2(b)(3)(C).” *United States v. Newman*, 614 F.3d 1232, 1239 (11th Cir. 2010) (“The district court’s reliance on the eight-year duration of the offense to find that it was ‘extensive in scope’ was [] error.”).

The conduct here differs both qualitatively and quantitatively from the actions taken in cases where the offense level increase has been affirmed. Indeed, the conduct here stands in stark contrast to that in *United States v. Jensen*, 248 Fed. App’x 849 (10th Cir. 2007), in which the court found conduct of corrections officer extensive in scope because it was “extreme and repetitive” and included supplying inmates with clean urine samples, advance notice of random drug testing, failing to record positive drug tests, and allowing inmates to leave the institution, all in return for sexual favors or money. *Id.*

The instant case similarly lacks the extensive planning and preparation found in *United States v. Hayes*, 358 Fed. App’x 685 (7th Cir. 2009), which involves a defendant who spent months preparing to kidnap a child by fraudulently “obtaining a passport and other identification documents, closing bank accounts, ceasing her mortgage and car payments, and recruiting her friend to assist in the kidnapping.” *Id.* at 687.

Furthermore, the cases relied upon by the Government, *United States v. Petruk*, 836 F.3d 974 (8th Cir. 2016), and *United States v. Rodriguez*, 499 Fed. App’x 904 (11th Cir. 2012), do not carry the weight assigned to them and are not applicable here. Indeed, both of the cases on which the government relies involve extensive planning and conduct—including, as the court found in one case, smuggling sperm into a secure prison facility to falsely implicate a corrections officer

(*Rodriguez*) and the use of an elaborate scheme to create false exculpatory evidence for introduction at trial in the other case (*Petruk*).

Accordingly, for the reasons set forth above, an offense level increase under U.S.S.G. § 2J1.2(b)(3)(C) is unjustified.

II. THE 18 U.S.C. §3553(a) FACTORS FAVOR A SENTENCE BELOW THE ADVISORY RANGE OF 15-21 MONTHS IMPRISONMENT.

For the reasons discussed below, the factors set forth in 18 U.S.C. §3553(a), militate in favor of a sentence below the advisory Guidelines range of 15-21 months imprisonment.

“The Court shall impose a sentence sufficient, but not greater than necessary, to comply” with the general purposes of sentencing.” 18 U.S.C. § 3553(a). In determining an appropriate sentence, the Court must consider the following:

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 [Sentencing Guidelines];
5. Any pertinent policy statement . . . ;

6. The need to avoid unwarranted disparities among similarly situated defendants . . . ; and
7. The need to provide restitution to any victims of the offense.

18 U.S.C. § 3553(a) (some minor alterations not noted).

Though the Guidelines are an important factor in the sentencing analysis, they are only advisory and the court is generally free to impose non-Guidelines sentences. *United States v. Gall*, 552 U.S. 38 (2007); *United States v. Booker*, 543 U.S. 220 (2005). This authority is consistent with the fundamental principle that a sentencing court should consider the full scope of a person’s life in an effort to sentence the individual as opposed to the crime:

“It has been uniform and constant in the federal judicial tradition for the sentencing judge to consider every convicted person as an individual and every case as a unique study in the human failings that sometimes mitigate, sometimes magnify, the crime and the punishment to ensue.” *Koon v. United States*, 518 U.S. 81, 113 . . . (1996). Underlying this tradition is the principle that “the punishment should fit the offender and not merely the crime.” *Williams [v. New York]*, 337 U.S. [241,] 247 [(1949)]

Pepper v. United States, 562 U.S. 476, 487-88, 131 S. Ct. 1229, 1239-40 (2011) (holding that post-sentencing rehabilitation is an acceptable basis for non-Guidelines sentence on resentencing after appeal).

The Supreme Court and Circuit Courts across the country encourage sentencing courts to exercise great discretion in imposing a just and fair sentence. *See e.g., Spears v. United States*, 555 U.S. 261 (2009); *Rita v. United States*, 551 U.S. 338 (2007); *Kimbrough v. United States*, 552 U.S. 85 (2007); *Booker*, 543 U.S. at 220. In exercising its utmost discretion to fashion an appropriate sentence, “the sentencing judge [must] consider every convicted person as an individual and every case as a unique study in the human failings that sometimes mitigate,

sometimes magnify, the crime and the punishment to ensue.” *Koon v. United States*, 518 U.S. 81, 113 (1996).

As we demonstrate in the sections that follow, imposing a non-Guidelines sentence on Stone will be sufficient but not greater than necessary to achieve the goals enumerated in 18 U.S.C. § 3553(a).

A. The Nature and Circumstances of the Offense Favor a Sentence Below the Advisory Guidelines Range.

Roger Stone was charged and convicted on Count 1, Obstruction of Proceeding (18 U.S.C. §1505(2)); Counts 2-6, False Statements (18 U.S.C. §1001(a)(2)); and Count 7, Witness Tampering (18 U.S.C. § 1512(b)(1)). He voluntarily testified before the House Permanent Select Committee on Intelligence regarding the Russian state's interference in the 2016 presidential election. In hindsight, notwithstanding the offense conduct, it is apparent that he had no substantive evidence to offer.

While Stone does not seek to minimize the seriousness of the charges, it is important to understand the circumstances in which they arose.

In March 2016, in the midst of the 2016 presidential election campaign, the Democratic campaign chairman's email accounts were compromised. In April 2016, both the Democratic National Convention (DNC) and the Democratic Congressional Campaign Committee's (DCCC) files and email accounts were compromised. DNC and DCCC officials learned of the compromise in May, but, by July 2016, the entire globe had found out. Julian Assange, and his library of documents, WikiLeaks, became the repository for the emails.

Several government agencies opened investigations into Russian interference in the 2016 election,” for example: the House Permanent Select Committee on Intelligence (“HPSCI”), the

Senate Select Committee on Intelligence, the House Committee on the Judiciary, the Senate Judiciary Committee, the Federal Bureau of Investigation, and the Office of the Special Counsel.

In the end, the investigations yielded no evidence of the involvement of any American with the Russian government or any agent operating on its behalf to interfere in the 2016 election. It is also undisputed that Roger Stone had nothing to do with obtaining the compromised emails or providing them to WikiLeaks.

Notwithstanding the context under which this case arose, the Court narrowed the scope of the trial to all but eliminate any reference to its genesis. With that in mind, Stone now submits that the Court should not lose sight of the fact that, with respect to the five statements upon which Stone's convictions under 18 U.S.C § 1001 are based, while the government argued and the jury found that the HPSCI Report was impacted by those statements, the conclusions in the report issued by the Office of the Special Counsel make inescapable the fact that the information that Stone failed to provide to HPSCI was insignificant in the broader context of the investigation into Russian interference in the 2016 election.

As discussed above, the Office of the Special Counsel had access to both Jerome Corsi and Randy Credico, as well as to the communications between Stone and each of them, and found no evidence of any connection to Russia. Stone's convictions for obstruction of justice and witness tampering should similarly be viewed in the broader context of the investigation. In other words, Stone stands convicted for having sought to conceal information ultimately determined to be of no investigative value. Neither Corsi, nor Credico, nor any of their communications provided any useful information in the investigation into election interference.

Stone submits further that, even were the Court to find that any of the offense level increases challenged above are applicable—and Stone maintains that they are not—the Court

should look beyond the technical prescriptions of the Guidelines and find that, in the circumstances of this case, Stone's conduct does not fall within the range of cases for which punishment of the magnitude reflected in the Guidelines calculations in the PSR is warranted.

Thus, though Stone does not seek to minimize the seriousness of the charges of which he has been convicted—indeed, he is painfully aware of the severity of the situation—it is respectfully submitted that the nature and circumstances of the conduct at issue would be amply punished with a sentence below the advisory range of 15-21 months imprisonment.

B. The History and Characteristics of the Defendant Favor a Sentence Below the Advisory Guidelines Range.

As a 67-year-old first time offender convicted of serious but non-violent crimes, Roger Stone's history and characteristics support a sentence below the advisory Guidelines range of imprisonment. As detailed in the accompanying letters from his family and friends, Roger Stone is far more than the persona he projects in the media. As those who know him well attest, he is a man devoted to his friends and family, but also someone who has repeatedly extended himself well beyond the normal range to assist virtual strangers.

The quality of his character is seen in the way he and his wife have opened their home to care for someone too poor and sick to manage on his own; the personal interest Stone has taken in the problems of others whom he has aided selflessly; and the strong connections he has made with his wife's children, whom he considers his own and who have proudly taken his name in acknowledgment of the love and support he has provided. These details and many more are provided in the accompanying letters, which the Court is urged to read and consider in fashioning a sentence that takes into account the full scope Stone's history and characteristics and not simply the narrow public persona he has adopted to further his professional endeavors.

Toward that end, the following is a synopsis of Stone's personal and professional history. Roger Stone was born in Norwalk, Connecticut on August 27, 1952. His father, Roger, a well driller, passed away at the age of 82 in 2013. His mother, Gloria, was a homemaker and passed away in 2016 at the age of 91. Roger has two sisters, Lisa Nicholson and Wendy Cox.

Roger's story begins in rural Connecticut where, other than school, his life was all about his family. Roger faithfully attended church with his parents and sisters and participated in community events where they lived. Growing up in a rural area, Roger was not able to join organized team sports, but to keep in shape and he began running and lifting weights, two activities he continues today.

His first exposure to politics was through elections in his primary and secondary schools. It was there his eyes were opened to politics on a local, state, and national level. With a desire to satisfy his curiosity about politics, he applied to and was admitted to the George Washington University where he enrolled in 1970. In order to help pay his way through school, he found a job on Capitol Hill that ultimately led to his hiring in 1971 at the President Richard Nixon re-election campaign and a lifelong obsession with politics and the political process. As a result of this start of his career in politics, before graduating, Roger left George Washington University and has never stopped working in politics.

Ever since landing in D.C., Roger worked very hard to succeed. Along the way, Roger worked for U.S. Senator Bob Dole, the Ronald Reagan presidential campaign, the campaign for both Presidents Bush, and on behalf of countless other candidates. He also played an important role in the post-presidency reputational rehabilitation of President Richard Nixon.

After his efforts in government and as integral parts of campaigns, Roger co-founded Black, Manafort, and Stone, a political affairs company in Washington, DC. After the partners

sold the company to a national public affairs company, Roger was largely self-employed and worked on behalf of causes and people who had interests in front of the government and candidates who wanted to be part of the government.

Through Roger's work in Washington, he met his first wife, Anne (Wesche) Stone. The two were married in 1974. They had no children. They remained married until 1990 when they divorced in Alexandria, Virginia. They remain friends to this day.

Soon thereafter Roger met Nydia Bertran and the two married in 1991. Although, by that year Nydia's children, Adria and Scott, were largely grown, Roger took them under his wing and helped guide them. The children thought so much of Roger and what he did for them and their mother that, without adoption, they changed their last names to be his.

Roger and Nydia now make their home in Fort Lauderdale, near Adria (a trauma nurse) and also close to Scott (a Broward County Sheriff Deputy), his wife, and their minor children, who are the grandchildren of Roger and Nydia.

Many believe they know Roger because of his public persona, but few really know the man. Throughout his life, it has been the things that have largely gone unnoticed that are a part of Roger Stone.

C. The Need for the Sentence to Reflect the Seriousness of the Offense, to Serve as a Deterrent, and to Provide Medical Care in the Most Effective Manner Warrant a Sentence Below the Advisory Guidelines Range.

1. A Non-Guidelines Sentence Would Adequately Reflect the Seriousness of the Offense and Promote Respect for the Law.

A non-Guidelines sentence will adequately reflect the seriousness of the offense, promote respect for the law, and provide just punishment for the offense.

Roger Stone was arrested under terrifying circumstances that traumatized him and his family. He has since been the focus of public scrutiny and vilification on a constant basis. Long

a public figure with influence in the political arena, he now stands a convicted felon. There is, therefore, no denying the severe and swift consequences that his actions have brought upon him, even prior to the formal imposition of sentence.

Respect for the law, however, is not furthered by rigid adherence to formulaic calculations, which is why the Court must consider the larger picture:

Imposing a sentence on a fellow human being is a formidable responsibility. It requires a court to consider, with great care and sensitivity, a large complex of facts and factors. **The notion that this complicated analysis, and moral responsibility, can be reduced to the mechanical adding-up of a small set of numbers artificially assigned to a few arbitrarily-selected variables wars with common sense.** Whereas apples and oranges may have but a few salient qualities, human beings in their interactions with society are too complicated to be treated like commodities, and the attempt to do so can only lead to bizarre results.

United States v. Gupta, 904 F. Supp. 2d 349, 350 (S.D.N.Y. 2012) aff'd, 747 F.3d 111 (2d Cir. 2014) (emphasis supplied).

In addition to the stress and strains described above, there is also a need for Stone to defend and respond to a barrage of civil litigation actions brought against him by a would-be witness, and his lawyer. The list below outlines the history of litigation against Stone in the past two years:

Case Name	Case Number	Type of Case	Status
<i>DNC v Russian Federation, Stone et. al.</i>	18-cv-03501 (SDNY)	RICO conspiracy	Dismissed
<i>Cockrum v Trump Campaign & Stone</i>	17-cv-1370 (DDC)	Civil rights conspiracy	Dismissed
<i>Klayman v Stone et. al.</i>	2019-CA-015104 (Palm Beach)	defamation	Motion To Dismiss Pending
<i>Klayman v Stone</i>	19-011394 (Broward)	Tortious Interference	In Discovery
<i>Klayman v Stone</i>	19-002672 (Broward)	defamation	In Discovery
<i>Klayman & Corsi v Stone</i>	19-cv-1573 (DDC)	defamation	Motion To Dismiss Pending

<i>Corsi v Stone & Newsmax</i>	19-13711 (Palm Beach)	defamation	Motion To Dismiss Pending
<i>Corsi v Stone</i>	19-cv-324 (DDC)	defamation	Motion To Dismiss Pending

It is with the above-described considerations in mind that the Court is urged to conclude that, in the instant matter, a sentence below the advisory Guidelines range is sufficient but not greater than necessary to reflect the seriousness of the offense, promote respect for the law, and to provide just punishment. § 3353(a)(2)(a).

2. A Non-Guidelines Sentence Would Provide an Adequate General and Specific Deterrent.

Correspondingly, a non-Guidelines sentence would be sufficient to satisfy the need for the sentence imposed to provide both a general and specific deterrent. With the respect to the public at large, as indicated above, the prosecution of this case and the attendant hardships on Stone and his family are such that, taking all of the circumstances of this case into account, no one could seriously contend that a sentence below the advisory Guidelines range would cause anyone to walk away from these proceedings believing that one can commit the offenses at issue here with impunity. In this case, including a trial more public than most and the corresponding loss of his professional standing, the process is itself significant punishment.

Moreover, as for Stone himself, at 67-years-old, he stands before the Court having no criminal history whatsoever. Despite his decades in the public eye and his often brash behavior, his prior conformity with the law reflects the near certainty that he will never again find himself the subject of criminal prosecution. It is all but guaranteed that the “perfect storm” that led to Stone’s actions at the heart of this case are unlikely ever again to materialize in his orbit.

Stone’s lack of any criminal history, combined with his age are strong indicators that Stone has no likelihood of recidivism. His lack of criminal history standing alone justifies a variance.

See United States v. Tomko, 562 F.3d 558 (3d Cir. 2009) (*en banc*) (tax offense); *United States v. Autery*, 555 F.3d 864 (9th Cir. 2009) (sentencing defendant guilty of possession of pornography to supervised release).

Empirical data show that defendants with no prior criminal history have the lowest rate of recidivism. United States Sentencing Commission, *Recidivism Among Federal Offenders: A Comprehensive Overview* (March 2016).⁴ Similarly, recidivism rates drop considerably for defendants sentenced for their first conviction over the age of 60. *Id.* at 23; *see also United States v. Bullion*, 466 F.3d 574, 576 (7th Cir. 2006).

Accordingly, it is respectfully submitted that Stone's exceptionally low risk of recidivism favors a sentence below the advisory Guidelines range.

3. A Non-Guidelines Sentence Would Provide Medical Care in the Most Effective Manner.

In addition to the fact that his age renders him a low risk of recidivism, his health is a further factor that weighs in favor a sentence below the advisory Guidelines range. § 3553(a)(2)(d) (a sentence should take into account the need to provide medical care in the most effective manner). Even in the pre-*Booker* landscape, serious medical conditions provided the basis for a below Guidelines sentence:

(1) Age may be a reason to depart downward only if and to the extent permitted by § 5H1.1." U.S.S.G. § 5K2.22. Under § 5H1.1, "[a]ge may be a reason to depart downward in a case in which the defendant is elderly and infirm and where a form of punishment such as home confinement might be equally efficient as and less costly than incarceration." U.S.S.G. § 5H1.1.

⁴ Available at: https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2016/recidivism_overview.pdf.

United States v. Chase, 367 Fed. Appx. 979, 983 (11th Cir. 2010) *cert. denied*, 131 S. Ct. 167 (U.S. 2010) (unpublished). Thus, the Guidelines recognize the need to account for older defendants who suffer from serious medical problems. U.S.S.G. § 5H1.1; *United States v. Brooke*, 308 F.3d 17, 20 n. 2 (D.C. Cir. 2002); *United States v. Irely*, 612 F.3d 1160, 1218 (11th Cir. 2010) *cert. denied*, 131 S. Ct. 1813 (U.S. 2011); *United States v. Stumpner*, 174 Fed. App'x 522, 524 (11th Cir. 2006) (unpublished); *United States v. Powell*, 576 F.3d 482, 499 (7th Cir. 2009); *United States v. Lee*, 454 F.3d 836, 839 (8th Cir. 2006).

Post-*Booker*, courts have routinely found that a sentencing court is free to impose a non-Guidelines sentence based upon the health needs of a defendant. *See, e.g., United States v. Davis*, 458 F.3d 491, 498 (6th Cir.2006) (“[A] trial court ... has a freer hand to account for the defendant's age in its sentencing calculus under § 3353(a) than it had before *Booker*”.); *United States v. Smith*, 445 F.3d 1, 5 (1st Cir.2006) (holding district court did not err, *inter alia*, by considering age because “[t]hat a factor is discouraged or forbidden under the guidelines does not automatically make it irrelevant”). *United States v. Lee*, 454 F.3d 836, 839 (8th Cir.2006); *United States v. Simmons*, 470 F.3d 1115, 1130-31 (5th Cir. 2006).

Accordingly, as detailed in the PSR, it is respectfully submitted that Stone's medical conditions warrant the imposition of a non-Guidelines sentence. PSR ¶¶ 103.

D. The Kinds of Sentences Available.

As an alternative to prison, probation or probation with a special condition of home detention for a period of time are viable alternatives in the instant matter. In light of the numerous factors discussed above that render this case outside the heartland of the run-of-the-mill case, it is respectfully submitted that a non-incarceratory sentence is appropriate here. The nature and circumstances of the offense, Stone's history and characteristics, including his low likelihood of

recidivism and significant health concerns, all favor a sentence that provides punishment without incarceration.

E. The Need to Avoid Unwarranted Disparities Favors a Non-Guidelines Sentence.

Roger Stone is but one of approximately 38 individuals or entities to face charges stemming from the investigations into interference in the 2016 election. Of those who have been sentenced, the following warrant consideration:

<u>Defendant</u>	<u>Case Number</u>	<u>Description</u>	<u>Sentence</u>
<i>Paul Manafort</i>	17-CR-0020 (D.D.C)	Manafort was charged with seven counts in the District of Columbia and pleaded guilty to conspiracy against the United States and to witness tampering in the D.C. case.	73 months (30 months concurrent to E.D.V.A.)
<i>Paul Manafort</i>	18-CR-00083 (E.D.Va.)	A jury found Manafort guilty on eight of 18 counts within the Eastern District of Virginia. The guilty charges included multiple counts of false income tax returns, failure to file reports of foreign bank accounts, and bank fraud.	47 months Total between both is 7.5 years.
<i>Michael Cohen</i>	18-CR-00850 (S.D.N.Y.)	Pleaded guilty to making false statements to Congress and campaign finance and tax and banking charges.	2 months for the false statement to Congress and 36 months on other tax and banking charges. Time to be served concurrently.
<i>Richard Pinedo</i>	18-CR- 00024 (D.D.C)	Pinedo pleaded guilty to one count of identity fraud and was sentenced to serve six months in prison, followed by six months of home confinement and 100 hours of community service. (Helped the Russian Troll Farm)	6 months in prison and 6 months home confinement
<i>Rick Gates</i>	17-CR-00201 (D.D.C)	Was charged in two separate federal courts in connection to financial crimes, unregistered foreign lobbying and on allegations that he made false statements to federal prosecutors. Gates pleaded guilty in Washington, D.C. in February 2018 on counts of conspiracy against the United States and lying to federal prosecutors.	45 days in jail followed by 3 years probation

<i>Alexander Vanderzwann</i>	18-CR-00031 (D.D.C.)	He had pleaded guilty to lying to federal agents about his contacts with Trump campaign deputy chair Rick Gates in September 2016. 30 Day sentence	30 days
<i>George Papadopoulos</i>	17-CR-00182 (D.D.C.)	Arrested for lying to FBI investigators about his correspondence with foreign nationals with close ties to senior Russian government officials. He pleaded guilty in October 2017. In September 2018, Papadopoulos was sentenced to 14 days incarceration, 200 hours of community service and a \$9,500 fine.	14 days
<i>Sam Patten</i>	18-CR-00260 (D.D.C.)	An American lobbyist admitted brokering access to President Trump's inauguration for a pro-Russian Ukrainian oligarch, a violation of FARA.	3 years probation

When viewed in the context of the other defendants sentenced for similar offenses stemming from the same investigation, the need to avoid disparities between similarly situated defendants indicates the applicability of a non-Guidelines sentence in the instant matter.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that the Court should impose a non-Guidelines sentence of probation with any conditions that the Court deems reasonable under the circumstances.

Respectfully submitted,
By: /s/ _____

ROBERT C. BUSCHEL
BUSCHEL GIBBONS, P.A.
D.D.C. Bar No. FL0039
One Financial Plaza, Suite 1300
100 S.E. Third Avenue
Fort Lauderdale, FL 33394
Telephone: (954) 530-5301
Fax: (954) 320-6932
Buschel@BGlaw-pa.com

BRUCE S. ROGOW
FL Bar No.: 067999
TARA A. CAMPION
FL Bar: 90944
BRUCE S. ROGOW, P.A.
100 N.E. Third Avenue, Ste. 1000
Fort Lauderdale, FL 33301
Telephone: (954) 767-8909
brogow@rogowlaw.com
tcampion@rogowlaw.com
Admitted pro hac vice

GRANT J. SMITH
STRATEGYSMITH, PA
D.D.C. Bar No.: FL0036
401 East Las Olas Boulevard
Suite 130-120
Fort Lauderdale, FL 33301
Telephone: (954) 328-9064
gsmith@strategysmith.com

CERTIFICATE OF SERVICE

I hereby certify that on February 10, 2020, I electronically filed the foregoing with the Clerk of Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record parties identified on the attached service list in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notice of Electronic filing.

*United States Attorney's Office for the
District of Columbia*

Timothy Shea
United States Attorney
Jonathan Kravis
Michael J. Marando
Assistant United States Attorneys
Adam C. Jed
Aaron S.J. Zelinsky
Special Assistant United States Attorneys
555 Fourth Street, NW
Washington, DC 20530
Telephone: (202) 252-6886
Fax: (202) 651-3393

By: /s/ Robert Buschel

From: [Evangelista, Alessio \(USADC\)](#)
To: **b6 per EOUSA** (USADC); [Cooper, Renata \(USADC\)](#); [Crabb, John D. \(USADC\)](#)
Subject: RE: Urgent Q from CNN -- Stone sentencing changing position?
Date: Tuesday, February 11, 2020 1:38:23 PM

Thanks. That is the correct response.

From: **b6 per EOUSA** (USADC) **b6 per EOUSA**
Sent: Tuesday, February 11, 2020 1:37 PM
To: [Cooper, Renata \(USADC\)](#); **b6 per EOUSA**; [Evangelista, Alessio \(USADC\)](#)
b6 per EOUSA; [Crabb, John D. \(USADC\)](#) **b6 per EOUSA**
Subject: FW: Urgent Q from CNN -- Stone sentencing changing position?
Importance: High

FYSA – We are getting a lot of media inquiries today regarding Roger Stone. I have given the usual “Our Office has no comment.”

b6 per EOUSA

From: [Polantz, Katelyn <Katelyn.Polantz@turner.com>](#)
Sent: Tuesday, February 11, 2020 12:14 PM
To: **b6 per EOUSA** (USADC) **b6 per EOUSA**
Subject: Urgent Q from CNN -- Stone sentencing changing position?

(b)

Will the DC USAO be changing the sentencing recommendation/guidelines calculation for Roger Stone, making it lesser than 87-108 months?

We are reporting this today, from a senior DOJ source: The department “was shocked to see the sentencing recommendation” for Roger Stone and will clarify its position with the courts.” “This is not what had been briefed to the department,” the official told CNN. “The department believes the recommendation is extreme and excessive and is grossly disproportionate to Stone’s offenses. The department will clarify its position later today with the court.”

Can you explain why this change would happen, and why the filing yesterday recommended 7-9 years?

We do see that USAO Shea signed off on the sentencing memo yesterday.

My cell number is **b6 per EOUSA**

Thank you,
Katelyn

--

Katelyn Polantz
Reporter – Justice/courts
CNN
Cell: **b6 per EOUSA**

Katelyn.polantz@cnn.com

From: [REDACTED] b6 per EOUSA
To: [Crabb, John D. \(USADC\)](#)
Subject: Roger Stone
Date: Tuesday, February 11, 2020 5:00:16 PM

Shame on you for signing that filing. You're a disgrace to the profession and the traditions of the Department of Justice. History will remember you as a pliant tool, a coward, and a fool.

From: [Evangelista, Alessio \(USADC\)](#)
To: [Crabb, John D. \(USADC\)](#)
Subject: Stone Amended Sentencing Memo (2.11.20) v4.docx
Date: Tuesday, February 11, 2020 2:58:54 PM
Attachments: [Stone Amended Sentencing Memo \(2.11.20\) v4.docx](#)

From: [Marando, Michael \(USADC\)](#)
To: [Crabb, John D. \(USADC\)](#)
Subject: Stone Sentencing Memo
Date: Tuesday, February 11, 2020 10:32:20 AM
Attachments: [Stone Defense Sentencing Memorandum.pdf](#)

John,

Attached is Stone's sentencing memo, in case you want to pass it along to Tim.

Michael

Michael J. Marando
Assistant United States Attorney
Fraud and Public Corruption Section
U.S. Attorney's Office for the District of Columbia
555 4th Street NW, Room 5241
Washington, D.C. 20530
202-252-7068

From: [Grant Smith](#)
To: [Crabb, John D. \(USADC\)](#)
Subject: Stone Team Introduction
Date: Tuesday, February 11, 2020 8:18:53 PM

Dear Mr. Crabb:

Good evening. I am Grant Smith, one of the attorneys for Roger Stone. I think it would be worth making introductions for you to our team and having a brief discussion with you in advance of sentencing next week. Do you have any time on Thursday for a call? If so, please provide me a couple of windows and I will set something up for us.

I look forward to speaking with you. Thank you.

Grant

Grant J. Smith, Esq.
StrategySmith, PA
401 East Las Olas Boulevard
Suite 130-120
Fort Lauderdale, FL 33301
954.328.9064 - Direct

From: [Hymes, Clare E.](#)
To: [Marando, Michael \(USADC\)](#)
Subject: CBS News Request
Date: Tuesday, February 11, 2020 10:21:11 PM

Hi Mr. Marando,

My name is Clare Hymes and I cover the Department of Justice for CBS News. I was hoping to see if you would be willing to discuss your departure from the Roger Stone case today and the nature around the department's intervention. I'd be happy to talk to you on or off the record, even an on camera interview if you are up for it. Give me a call, text or signal at your convenience.

Respectfully,

Clare Hymes

CBS News

b6 per EOUSA

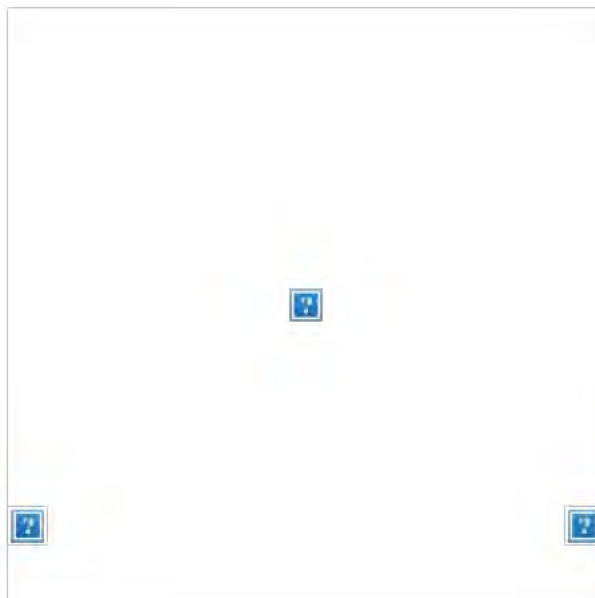
o.202-457-4449

From: [The National Law Journal Breaking News](#)
To: [Marando, Michael \(USADC\)](#)
Subject: Every Roger Stone Prosecutor Quit the Case After Main Justice Overrode Their Call for Tougher Sentence
Date: Tuesday, February 11, 2020 5:54:14 PM



Every Roger Stone Prosecutor Quit the Case After Main Justice Overrode Their Call for Tougher Sentence

The prosecutors' withdrawals from Stone's case are an apparent rebuke of DOJ's retraction of the initial sentencing... [Read More](#)



 Forward to a Friend

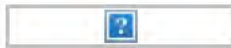
CONNECT WITH THE NATIONAL LAW JOURNAL



This newsletter was sent to **b6 per EOUSA**

[Unsubscribe](#) | [Email Preferences](#) | [About Us](#) | [Privacy Policy](#)

Copyright © 2020 **ALM Media Properties, LLC.**
All Rights Reserved.



150 E 42nd St | New York, NY 10017 | 1-877-256-2472

Ads powered by



From: [The National Law Journal Breaking News](#)
To: [Marando, Michael \(USADC\)](#)
Subject: Feds Ask for Up to 9 Years Prison Time for Roger Stone, Citing 'Contempt for this Court'
Date: Monday, February 10, 2020 6:48:31 PM



Feds Ask for Up to 9 Years Prison Time for Roger Stone, Citing 'Contempt for this Court'

"Stone's criminal conduct was not an act of desperation," prosecutors wrote. "Rather, his conduct was undertaken purposefully,...."

[Read More](#)



 Forward to a Friend

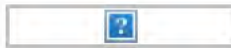
CONNECT WITH THE NATIONAL LAW JOURNAL



This newsletter was sent to **b6 per EOUSA**

[Unsubscribe](#) | [Email Preferences](#) | [About Us](#) | [Privacy Policy](#)

Copyright © 2020 **ALM Media Properties, LLC.**
All Rights Reserved.



150 E 42nd St | New York, NY 10017 | 1-877-256-2472

Ads powered by



From: [The National Law Journal Daily Headlines](#)
To: [Marando, Michael \(USADC\)](#)
Subject: Lawyers for The Washington Post and Facebook Share What They Seek in Outside Counsel
Date: Tuesday, February 11, 2020 6:01:55 AM



A MESSAGE FROM THE EDITOR

Lawyers who represent The Washington Post and Facebook recently shared details about what they seek in outside counsel during the American Bar Association Forum on Communications Law in Austin. Next, federal prosecutors recommend that Roger Stone, a former Trump adviser, serve a prison sentence of up to nine years in prison, Jacqueline Thomsen reports. And Wilmer Cutler Pickering Hale and Dorr received roughly 260 new retainer agreements or updates to outside counsel guidelines just last year. Dan Packer reports on how the firm manages all of them.

Check out these items and others below.

– Lisa Helem, Editor-in-Chief, The National Law Journal | Legal Times

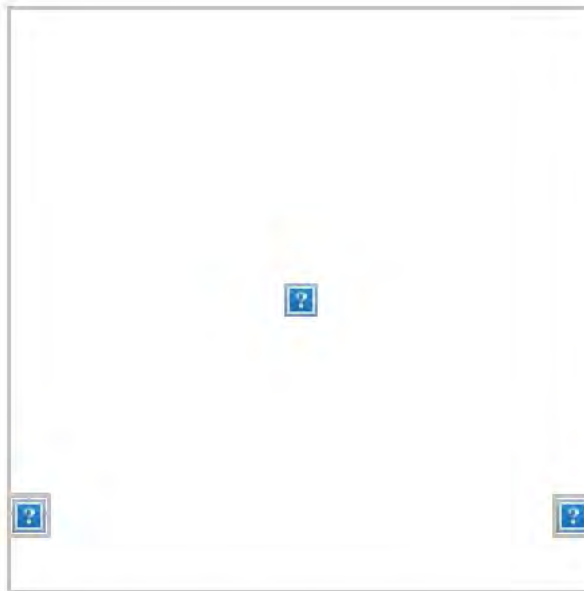
COMMUNICATIONS AND MEDIA | EVENT

Lawyers for The Washington Post and Facebook Share What They Seek in Outside Counsel

By Angela Morris

During a legal conference in Austin, lawyers who represent Facebook, Bloomberg, The Washington Post, Discovery Inc.... [Read More](#)





CRIMINAL LAW | NEWS

Feds Ask for Up to 9 Years in Prison for Roger Stone, Citing 'Contempt for This Court'

By Jacqueline Thomsen

"Stone's criminal conduct was not an act of desperation," prosecutors wrote. "Rather, his conduct was undertaken purposefully,....

[Read More](#)



LAW DEPARTMENT MANAGEMENT | NEWS

'Technology Alone Is Not the Answer': Wilmer Revisits Outside Counsel Guidelines

By Dan Packel

The firm's new system combines human intelligence with a data-centric approach.

[Read More](#)



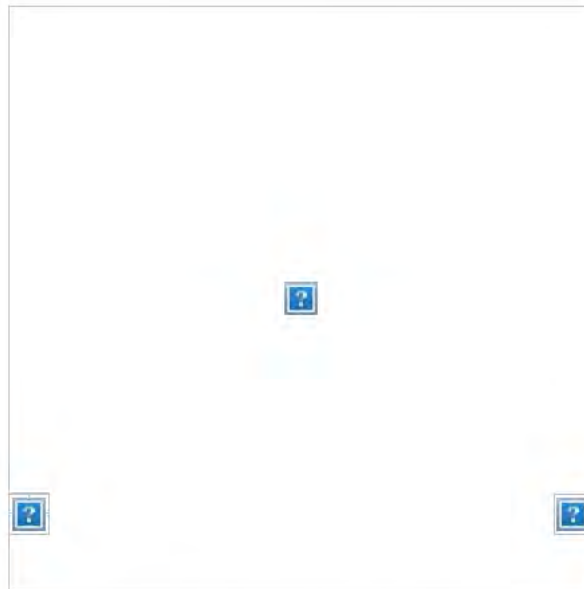
LAW FIRM CLIENT RELATIONSHIPS | NEWS

At Boies Schiller, New Leaders Grapple With Departures, Compensation

Questions

By Jack Newsham

Amid a string of 2020 departures, the firm is evaluating partner pay, including whether to stick with a formula compensation... [Read More](#)



ADMINISTRATIVE LAW

When Must the U.S. Pay Legal Fees? A Vietnam Vet Turns to the Supreme Court

By Marcia Coyle

A judge on the U.S. Court of Appeals for the Federal Circuit said Alfred Procopio's case was the very sort of dispute... [Read More](#)



CONTRACTS

Amazon's Lawyers Want to Depose Trump in Suit Over \$10B Pentagon Contract

By Mike Scarcella

Any deposition of Trump at the Washington offices of Gibson, Dunn & Crutcher would examine, among other things, his... [Read More](#)



JUDGES | NEWS

2020 Dems Pitch Plans to Fight Trump and McConnell for Control of the Courts

By Jacqueline Thomsen

Candidates including Pete Buttigieg and Sens. Bernie Sanders and Elizabeth Warren laid out their plans for overhauling... [Read More](#)



LAW FIRM MANAGEMENT | NEWS

Why Fish & Richardson's Peter Devlin Is Stepping Down After 20 Years as CEO

By Scott Graham

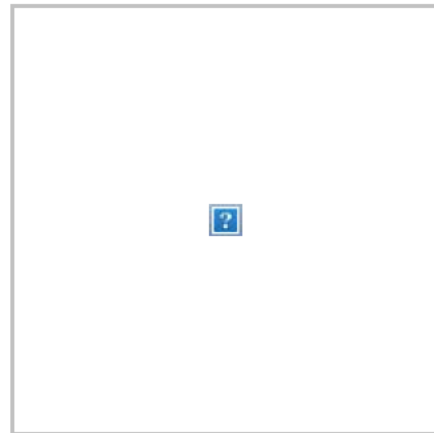
Following a yearlong transition, the reins are being handed to Minneapolis partner John Adkisson. [Read More](#)



SAVE THE DATE

Legalweek New York

Legalweek, is the one week each year where thousands of legal professionals gather to network with peers, dive deeper into their professional development, explore topics tailored to their roles and gain the tools to get legal business done! [Learn More](#)



RESOURCES

Making Structured Data Properly Structured for Legal with AI Illuminate

Sponsored by: Veritone

As technology continues to re-shape the meaning of “efficiency” for the eDiscovery process, learn how you can leverage AI to automate audio and video data for review. [Learn More](#)

3 Ways to Leverage Data Visualization in Your Workflows

Webcast Date: Wednesday, February 19, 2020 | When you have access to data visualization tools, it opens a world of possibilities for your firm. [Learn More](#)

MORE FROM THE ALM NETWORK

Judge Appears Unlikely to Halt California Law Against Uber, Postmates | The Recorder

The Recorder

At a hearing on Friday, a federal judge appeared unlikely to grant a motion for preliminary injunction that Uber and... [Read More](#)

'Their Day in Arbitration': Judge Seems Poised to Compel Mass Arbitration Against DoorDash | The Recorder

The Recorder

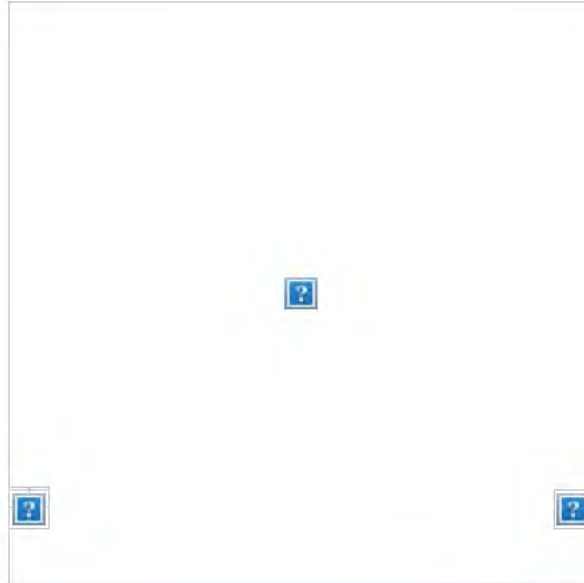
As Gibson, Dunn & Crutcher motioned to stay a case seeking to compel 6,000 individual arbitration claims, U.S. District... [Read More](#)

Too Cute? Appeals Court Nixes Claim Over 'No Sugar Added' Label on

Cuties Juice | The Recorder

The Recorder

The Second District Court of Appeal upheld a ruling dismissing a class action against a tangerine juice maker accused... [Read More](#)



APPLY FOR A JOB

POWERED BY LAWJOBS.COM

Attorney

Lacy Katzen LLP – Rochester, New York

Commercial Real Estate Attorney - Long Island, New York


On Balance Search Consultants – Long Island, New York

Trusts And Estates Litigator, Long Island, Ny

On Balance Search Consultants – Long Island, New York

Trial Attorney

NANCY L ISSERLIS, LAW OFFICES OF – Long Island City, New York

 [Forward to a Friend](#)

CONNECT WITH THE NATIONAL LAW JOURNAL



This newsletter was sent to **b6 per EOUSA**

[Unsubscribe](#) | [Email Preferences](#) | [About Us](#) | [Privacy Policy](#)

Copyright © 2020 **ALM Media Properties, LLC.**
All Rights Reserved.



150 E 42nd St | New York, NY 10017 | 1-877-256-2472

Ads powered by



From: [Polantz, Katelyn](#)
To: [Marando, Michael \(USADC\)](#)
Subject: RE: Stone case-urgent questions
Date: Tuesday, February 11, 2020 4:28:36 PM

Hi Mike, Are you staying with the office?
-Katelyn

From: Polantz, Katelyn
Sent: Tuesday, February 11, 2020 3:20 PM
To: Marando, Michael (USADC) <b6 per EOUSA [REDACTED]>
Subject: RE: Stone case-urgent questions

Thank you. I will.

From: Marando, Michael (USADC) <b6 per EOUSA [REDACTED]>
Sent: Tuesday, February 11, 2020 3:18 PM
To: Polantz, Katelyn <Katelyn.Polantz@turner.com>
Subject: Re: Stone case-urgent questions

Sorry I can't comment on anything. Please direct all questions to our press office

Michael J. Marando
Assistant United States Attorney
(202) 252-7068

On Feb 11, 2020, at 3:15 PM, Polantz, Katelyn <Katelyn.Polantz@turner.com> wrote:

Hi Mike,
We saw Aaron Zelinsky's resignation from the Stone case and are reporting on DOJ's intended plan to change the recommended sentence. We're trying to understand more about why this is happening/what's going on between the DC USAO and Main. Is Zelinsky's resignation in protest, or has he been fired?
I'm on my cell phone at b6 per EOUSA [REDACTED] if you have a moment. I also use Signal.

Thank you,
Katelyn

--
Katelyn Polantz
Reporter – Justice/courts
CNN
Cell: b6 per EOUSA [REDACTED]

Katelyn.polantz@cnn.com