

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

UNITED STATES OF AMERICA	)	
	)	NO. 3:22-cr-00078
v.	)	
	)	JUDGE RICHARDSON
ROBIN SMITH	)	
	)	

**UNITED STATES’ SENTENCING MEMORANDUM AND RESPONSE TO
DEFENDANT’S POSITION REGARDING PRESENTENCE REPORT**

“[A] democracy is effective only if the people have faith in those who govern, and that faith is bound to be shattered when high officials and their appointees engage in activities which arouse suspicions of malfeasance and corruption.” *United States v. Mississippi Valley Generating Co.*, 364 U.S. 520, 562 (1961). Robin Smith, while serving as a Representative of the State of Tennessee, and her coconspirators shattered that faith by engaging in a lengthy conspiracy to cheat the State and corrupt the process through which State legislators communicated with their constituents. Smith exploited her significant power for her own personal benefit by trading her public office for private gain for herself and her associates, all the while carefully and deliberately concealing her conduct from detection. In contrast to her co-conspirators, however, Smith partially redeemed herself by acknowledging the wrongfulness of her conduct and testifying against her former colleagues.

Sentencing is scheduled for Friday, October 24, 2025. Pending Smith’s Rule 32(i)(4) statement at sentencing, if any, the United States anticipates requesting that the Court sentence Smith to a term of imprisonment at the low end of the Guidelines range, a \$10,000 fine, a mandatory special assessment of \$100, and the conditions of supervision recommended in the Presentence Report (PSR). The government also requests that the Court confirm its forfeiture Order, (D.E. #33.), when pronouncing the sentence.

I. FACTUAL BACKGROUND

In early 2019, Smith's co-conspirator, Glen Casada, was one of the most powerful public officials in Tennessee. He was Speaker of the Tennessee House of Representatives, and Cade Cothren was his Chief of Staff and right-hand man. (PSR, at ¶¶ 11-12.) In May 2019, news media published offensive text messages Cothren had written between 2014 and 2016. Among other things, the articles reported that Cothren bragged about using cocaine in the Tennessee Statehouse, talked about soliciting oral sex and nude photographs from an intern, and referred to Black people as "idiots." (*United States v. Casada*, 3:22-cr-282 (M.D. Tenn.), D.E. #439, Declaration of Special Agent Clayton Worcester ("Worcester Decl."), at ¶ 3, Ex. 1-4.). In the wake of this reporting, Cothren's reputation was "pretty much destroyed," as former Rep. Patsy Hazlewood testified at the trial of Casada and Cothren, and Cothren resigned. (PSR, at ¶ 54.) Later that year, the Tennessee Republican Caucus held a vote of no-confidence in Casada as Speaker, and, in August 2019, he stepped down as Speaker of the House. (*See id.*) Casada remained a Representative until 2023. (*Id.*, at ¶ 11.)

Shortly after Casada stepped down, he, Cothren, and Smith (collectively, the "conspirators"), conspired to defraud the State of Tennessee and its citizens. (*See id.*, at ¶¶ 14-15.) Through the State's Postage and Printing Allowance ("PPA"), each Representative was allocated \$3,000, compounding each year, to fund the printing and postage for constituent communications. (*Id.*, at ¶ 13.) The expenditure of PPA funds required the approval of the Representative, the Office of the Speaker of the House, and Connie Ridley, the Director of Legislative Administration. (*Id.*, at ¶ 45.)

The conspirators agreed that Cothren would create an LLC called Phoenix Solutions to provide constituent mailer services to Tennessee Republican House members. (*Id.*, at ¶ 14.)

Because of Cothren’s tarnished reputation, the conspirators knew that the venture would be unsuccessful if Cothren’s involvement was widely known. (*Id.*, at ¶¶ 14-15.) Instead, Casada and Smith either approached their colleagues in the legislature on behalf of Phoenix Solutions or they did not disclose the LLC’s involvement at all. (*Id.*) For his part, Cothren hid behind the fake identity, “Matthew Phoenix,” supposedly an experienced political consultant formerly with the prominent D.C. consulting firm Jamestown Associates. (*Id.*, at ¶ 15.) Both Matthew Phoenix and the purported relationship with Jamestown Associates were complete fabrications. (*Id.*)

To keep up this sham, the conspirators repeatedly deceived their colleagues and State officials. For example, Cothren sent the State of Tennessee a fraudulent W-9 in the name of “Matthew Phoenix.” (*Id.*, at ¶ 19.) He also involved his girlfriend, Ava Korby, in the scheme by directing her to falsely pose as another, made-up employee of Phoenix Solutions during an extended email exchange intended to dupe Ridley. (*Id.*, at ¶ 22.) The conspirators even manufactured a fake confrontation between Casada and Smith that took place on the floor of the Tennessee House of Representatives—intended to be in full view of other legislators—to throw the current Speaker off their scent. (*See* GX 59.)¹

They went to these lengths because, had Cothren’s involvement been known, the conspirators’ invoices would not have been paid. For starters, legislators testified at the trial of Casada and Cothren that they would not have agreed to work with Cothren if they had known the true situation. (Testimony of P. Hazelwood, E. Helton-Hayes.) Connie Ridley testified that she would not have approved the conspirators’ invoices had she known of Cothren’s involvement. Likewise, Representatives testified that, if they had known that other Representatives, namely

¹ Citations to “GX” are to government exhibits admitted during the trial in *United States v. Casada*, 3:22-cr-282 (M.D. Tenn.).

Casada and Smith, were secretly profiting off State-funded mailers, they would have “adamantly objected.” (Testimony of J. Reedy.) And the conspirators knew that, for these reasons, the Office of the Speaker of the House would not have approved Phoenix Solutions’ invoices. (*See, e.g.*, PSR, at ¶ 55.).

As suspicions at the State grew, payment of the conspirators’ invoices slowed. (Testimony of R. Smith.) To break the logjam, Cothren “officially set [Smith] loose on [Ridley’s] ass.” (GX 58.) As sitting State Representatives, Smith and Casada had unparalleled access to Ridley and her superiors in the Speaker’s Office compared to a typical State vendor. (Testimony of C. Ridley; Testimony of R. Smith.) Smith asked the Speaker’s Chief of Staff—effectively Ridley’s boss—to put pressure on Ridley to pay Phoenix Solutions’ invoices and met personally with Ridley in an effort to do the same. (*Id.*) Casada also met with Ridley regarding the delayed payment of the conspirators’ invoices and told Smith he was “going to touch base with [the Chief of Staff] tomorrow on this situation of ours.” (GX 33.) Ridley testified that her sole goal was to “maintain the integrity of the fiscal operation of” the legislature. (Testimony of C. Ridley.) But when Ridley continued to resist Casada and Smith’s pressure campaign, they called her a “bitch.” (GX 39.)

In exchange for Casada and Smith’s efforts with their colleagues, Connie Ridley, and the Speaker’s Office, Cothren kicked back to the Representatives portions of the more than \$50,000 the State ultimately paid to the conspirators. (*See, e.g.*, PSR, at ¶ 79.) As Smith testified, the conspirators also concealed these kickbacks. The conspirators routed payments from the State through Smith and Casada’s personal consulting companies to accounts controlled by Cothren before he kicked back a portion of the profits to them. (*See* GX 405-409.)

The initial business with the State and the corresponding abuses of Casada and Smith’s public offices was a crucial launching pad for building a much more lucrative business. They

leveraged the initial, State-funded success of the company, and their contacts within and intertwined with government, to gain much more lucrative caucus and campaign work. (*See* GX 410.) For example, Cothren posed as “Matthew Cyrus” in a bid to persuade Chip Saltsman, the House Republican Caucus consultant, to use Phoenix Solutions for caucus work. (GX 91.) In recorded calls with Daniel Cox, the political director of the Tennessee House Republican caucus, Cothren disguised himself as “Matthew Phoenix” in an effort to win caucus business for Phoenix Solutions. (Worcester Decl., at ¶ 4.) Cothren also used the “Matthew Phoenix” pseudonym to deceive Representative Johnny Garrett in an effort to obtain the legislator’s campaign business. (GX 104, 454.) Witnesses who used or recommended Phoenix Solutions for campaign and caucus work testified that they would not have done so if they had known that Cothren was involved or that sitting Representatives were secretly profiting from the work. (Testimony of N. Crawford, E. Helton-Haynes.) In total, building on the foundation of the State-funded work the conspirators received via bribery and fraud, Phoenix Solutions received approximately \$159,496.48 in revenue from caucus and campaign work. (Gov’t Position Regarding PSR, D.E. #35.)

II. GUIDELINES CALCULATION

Even though the U.S. Sentencing Guidelines are advisory, *United States v. Booker*, 543 U.S. 220 (2005), provides that sentencing courts “must consult those Guidelines and take them into account when sentencing.” *Id.* at 264. Using the Guidelines Manual for 2024, the PSR calculates Smith’s Total Offense Level as 21. (PSR, at ¶ 95.) With a Criminal History Category of I, the PSR calculates Smith’s Guidelines range as 37-46 months’ imprisonment. (*Id.*, at ¶ 129.)

For the reasons set forth in the government’s Position Regarding the Presentence Report, the government objects to an enhancement of 6 levels, rather than 10, pursuant to U.S.S.G. § 2C1.1(b)(2).

III. FACTORS UNDER 18 U.S.C. § 3553(A)

In addition to determining a defendant's advisory Guideline range, a court must assess other applicable sentencing factors. *See* 18 U.S.C. § 3553(a). Those factors include the nature and circumstances of the offense; the history and characteristics of the defendant; the need for the sentence imposed to reflect the seriousness of the offense; to promote respect for the law; to provide just punishment for the offense; to afford adequate deterrence to criminal conduct; and to protect the public from further crimes of the defendant; the need to avoid unwarranted sentencing disparities; and the need to provide restitution to the victims. *See* 18 U.S.C. § 3553(a).

Notably, the Guidelines range itself provides a useful framework for evaluating all of the other factors together because it provides a “rough approximation” of sentences that will achieve all of § 3553's objectives. *Rita v. United States*, 551 U.S. 338, 350 (2007); *United States v. Perez-Rodriguez*, 960 F.3d 748, 754 (6th Cir. 2020).

A. Nature and Circumstances of the Offense

The defendant's crimes were serious. While serving as an elected State Representative, Smith engaged in a lengthy conspiracy to defraud the State of Tennessee and its citizens. The conspiracy lasted more than a year, with every indication that it would have continued well beyond 2020 had the FBI not uncovered it. Smith accepted bribes and kickbacks, pressured Connie Ridley, and lied to further the business interests of Phoenix Solutions, all with the ultimate goal of enriching herself and her co-conspirators. In exchange for bribes, Smith used the power and authority of her public office to cajole her colleagues in the legislature and pressure career public officials to perform actions that would secretly benefit her financially. And she disparaged at least

one key official, a respected, 30-year veteran public servant, simply because she would not do her corrupt bidding.

Smith knew that what she was doing was wrong and that the scheme would unravel if anyone caught on. Casada, Cothren, and Smith developed and discussed elaborate steps to avoid being caught. Text messages showed that Cothren and Smith collaborated on the best ways to disguise the true makeup and activities of Phoenix Solutions. Casada and Smith went so far as to stage a performative confrontation on the floor of the House of Representatives in a desperate attempt to maintain concealment of their illegal scheme and throw reform-minded officials in the Office of Legislative Administration and Speaker's Office off their trail.

When Smith was interviewed by the FBI at the twilight of the scheme, she lied. (PSR, ¶¶ 26-27.) She falsely claimed that Phoenix Solutions was started by members of Jamestown Associates, a prominent D.C. lobbying firm. (*Id.*, at ¶ 26.) She went so far as to state that one of its principals introduced Smith to Cothren and Ava Korby. (*Id.*)

In short, the nature and circumstances of the offense and Smith's role in it weigh in favor of a Guidelines sentence.

B. History and Characteristics of the Defendant

The defendant had an excellent relationship with her parents and never went without necessities growing up. (PSR, ¶ 105.) She is a member of the congregation of Abba's House, which is an encouraging community which helped shape her beliefs. (PSR, ¶ 106.) Her husband is supportive of her, and they have a strong relationship. (PSR, at ¶ 107.) Her children are supportive of her as well. (PSR, at ¶ 108.) She has had no significant mental health issues and reported no drug addiction. (*Id.*, at ¶¶ 107, 108.) She is neither exceptionally youthful nor old and is in good health. (*Id.*, at ¶ 106.)

In sum, the defendant has experienced no hardships that could even arguably justify or explain her criminal conduct. Quite simply, the defendant chose to use her considerable advantages and opportunities to engage in conduct that was selfish, corrupt, and criminal. Her history and characteristics are those of someone who should have known the gravity of his criminal conduct and who has no external causes to blame. *See United States v. Stefonek*, 179 F.3d 1030, 1038 (7th Cir. 1999) (citation omitted) (“Criminals who have the education and training that enables people to make a decent living without resorting to crime are more rather than less culpable than their desperately poor and deprived brethren in crime.”); *United States v. Stall*, 581 F.3d 276, 286 (6th Cir. 2009) (“We do not believe criminals with privileged backgrounds are more entitled to leniency than those who have nothing left to lose.”).

Smith has no criminal history. This is reflected in both her Criminal History Category and her two-level reduction under U.S.S.G. § 4C1.1. Accordingly, her lack of criminal history is already properly accounted for by the Guidelines and does not warrant any additional downward variance.

Smith’s history and characteristics are notably distinguished from her conspirators, however. Unlike Casada and Cothren, Smith swiftly appreciated the wrongfulness of her conduct. She accepted responsibility by pleading guilty to honest services wire fraud, a felony offense. She has expressed genuine remorse for years and has expressed that contrition under oath from the witness stand. She has prepaid her forfeiture obligation, which is rare among convicted felons.

C. The Need to Reflect the Seriousness of the Offense, Promote Respect for the Law and Provide Just Punishment for the Offense

Despite Smith’s longstanding acceptance of responsibility and efforts to make amends, the seriousness of the offense still suggests that a custodial sentence is appropriate. Any time an offense involves elected public officials abusing their office for personal gain, it “cannot properly

be seen as a victimless crime, for in a sense it threatens the foundation of democratic government” and “tears at the general belief of the citizenry that government officials will carry out their duties honestly, if not always competently.” *United States v. Hayes*, 762 F.3d 1300, 1309 (11th Cir. 2014). An offense of this nature is exceptionally serious, since “[t]he corruption of elected officials undermines public confidence in our democratic institutions.” *United States v. Rosen*, 716 F.3d 691, 694 (2d Cir. 2013), *abrogated on other grounds by McDonnell v. United States*, 136 S. Ct. 2355 (2016). Indeed, “[a] democratic government cannot function when those occupying the most elevated offices act to benefit themselves rather than the citizenry for which they work and to which they owe their highest loyalty.” *Morgan*, 635 F. App’x at 469 (Holmes, J., concurring).

As one court has explained:

We need not resign ourselves to the fact that corruption exists in government. Unlike some criminal justice issues, the crime of public corruption can be deterred by significant penalties that hold all offenders properly accountable. The only way to protect the public from the ongoing problem of public corruption and to promote respect for the rule of law is to impose strict penalties on all defendants who engage in such conduct, many of whom have specialized legal training or experiences. Public corruption demoralizes and unfairly stigmatizes the dedicated work of honest public servants. It undermines the essential confidence in our democracy and must be deterred if our country and district is ever to achieve the point where the rule of law applies to all—not only to the average citizen, but to all elected and appointed officials.

United States v. Spano, 411 F. Supp. 2d 923, 940 (N.D. Ill. 2006). A custodial sentence would recognize the seriousness of the offense and promote respect for the law.

D. The Need to Afford Adequate Deterrence to Criminal Conduct and Protect the Public from Further Crimes of the Defendant

The role of specific deterrence is minimal. Smith no longer holds public office and is 61 years old. She has acknowledged the wrongfulness of her conduct and has evidently learned from it. Given that she has internalized the wrongfulness of her conduct—and in the absence any

criminal history or evidence of similar conduct in the past—there is little reason to believe Smith will reoffend.

General deterrence is a significant consideration in this public corruption case, however. As the Sixth Circuit has stated, “white-collar crimes ‘are especially susceptible to general deterrence’ and ‘there is a general policy favoring incarceration for these crimes.’” *United States v. Musgrave*, 647 F. App’x 529, 533 (6th Cir. 2016) (quoting *United States v. Musgrave*, 761 F.3d 602, 609 (6th Cir. 2014)). “Because economic and fraud-based crimes are more rational, cool, and calculated than sudden crimes of passion or opportunity, these crimes are prime candidates for general deterrence.” *Musgrave*, 761 F.3d at 609 (cleaned up); *see also United States v. Arroyo*, 75 F.4th 705, 708-09 (7th Cir. 2023) (“Bribery is a premeditated crime—those tempted to sell out the public have plenty of time to weigh the risks and rewards before doing so.”); *see also Morgan*, 635 F. App’x at 450 (noting that “[d]eterrence is a crucial factor in sentencing decisions for economic and public corruption crimes such as this one”).

Smith’s conduct here—planned well in advance and coordinated with confederates—is a classic example of a rational, cool, calculated crime that is a “prime candidate” for general deterrence. Public corruption is exceptionally difficult to detect. *See United States v. Heffernan*, 43 F.3d 1144, 1149 (7th Cir. 1994) (“Considerations of (general) deterrence argue for punishing more heavily those offenses that either are lucrative or are difficult to detect and punish, since both attributes go to increase the expected benefits of a crime and hence the punishment required to deter it.”). Unlike violent crimes or frauds, victims rarely rush to law enforcement to report bribery. Given how rarely public corruption is detected, a significant sanction is needed to deter prospective corrupt officials and their confederates. An appropriate term of imprisonment would deliver a

message to all who have the privilege of participating in public office, and those who seek to influence their actions, that no bribe is worth the risk of federal prison.

E. The Need to Avoid Unwarranted Sentencing Disparities

The government respectfully requests that the Court impose a custodial sentence for another reason: to avoid unwarranted sentencing disparities. According to the Judicial Sentencing Information (“JSIN”) system’s records, in the last five fiscal years, there have been 42 defendants with a primary guideline of Section 2C1.1, a Final Offense Level of 21, a Criminal History Category of I, and without a substantial assistance departure. Thirty-six of those defendants received a sentence of imprisonment, the median length of which was 24 months. Should the Court sustain the government’s objection, the statistics would change to 21 defendants, 19 of whom received a sentence of imprisonment, the median length of which was 40 months.

However, the Sentencing Commission’s national statistics are “starting point[s],” rather than ending points, for courts’ efforts to “to avoid unwarranted sentence disparities among defendants with similar criminal records who have been found guilty of similar conduct.” *See United States v. Stock*, 685 F.3d 621, 630, n.6 (6th Cir. 2012); *United States v. Brown*, 828 F. App’x 256, 260 (6th Cir. 2020). Indeed, the disparity between white-collar crime and other crimes is also appropriate for the Court to consider: “One of the central reasons for creating the sentencing guidelines was to ensure stiffer penalties for white-collar crimes and to eliminate disparities between white-collar sentences and sentences for other crimes.” *United States v. Davis*, 537 F.3d 611, 617 (6th Cir. 2008). Additionally, the government anticipates requesting that, when considering unwarranted sentencing disparities, the Court account for the 36-month sentence imposed on Casada.

In any event, one of the most foolproof ways to avoid sentencing disparities is sentencing within the guideline range, and the government anticipates requesting that the Court do so here.

F. The Need to Provide Restitution to Any Victims of the Offense

There is no restitution owed in this case and so this factor need not affect the sentence imposed by the Court.

IV. CONCLUSION

For the reasons set forth above, and subject to Smith's Rule 32(i)(4) statement at sentencing, if any, the United States anticipates requesting that the Court sentence Defendant to a term of imprisonment at the low end of the Guidelines range, a \$10,000 fine, a mandatory special assessment of \$100, and the conditions of supervision recommended in the Presentence Report. The government also requests that the Court confirm its forfeiture Order, (D.E. #33.), when pronouncing the sentence.

Respectfully submitted,

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