

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

UNITED STATES OF AMERICA,)	Docket No. 1:21-cr-00025
)	
)	
v.)	ELECTRONICALLY FILED
)	
JORDEN MINK,)	The Honorable Randolph D. Moss
)	
Defendant.)	

DEFENDANT’S REQUEST FOR DOWNWARD DEPARTURE OR VARIANCE

AND NOW, comes Defendant, Jordan Mink (hereinafter “Mr. Mink”), by and through his attorney, Komron Jon Maknoon, Esquire, pursuant to 18 U.S.C. § 3553, and hereby respectfully requests this Honorable Court grant him a downward departure and/or variance from the properly calculated recommended Guideline sentencing range. As grounds in support thereof, Mr. Mink files the within Motion for Downward Departure or Variance and avers the following:

INTRODUCTION

“The history of the Sentencing Reform Act and the Guidelines commentary demonstrate that departures were intended to play a vital role in the operation of the guidelines system; first, by informing the Sentencing Commission of factors not adequately considered in the Guidelines that could be subject of future amendments, and second, by providing sentencing courts an opportunity to adjust sentences to the infinite variety of individual circumstances that no system of guidelines could conceivably take into account.” *United States v. Emmenegger*, 329 F.Supp.2d 416 (S.D.N.Y. 2004) (citing *Koon v. United States*, 518 U.S. 81, 92-94 (1996)). Departure is thus “essential to the satisfactory functioning of the sentencing system.” *United States v. Milikowsky*, 65 F.3d. 4, 7 (2d Cir. 1995).

Departure is permitted on the basis of any factor, even those addressed in the Guidelines, which are not *adequately* considered by the Guidelines. *United States v. Smith*, 930 F.2d 1450, 1454 (10th Cir. 1991) (may depart on the basis of any factor); *United States v. Jones*, 332 F.3d 1294, 1299 (10th Cir. 2003) (departure appropriate when mitigating factor of a kind, or to a degree, not adequately considered by the Sentencing Commission). Moreover, courts may consider several factors in combination even if they do not individually rise to the level of departure. *See United States v. Jones*, 158 F.3d 492, 504-5 (10th Cir. 1998).

Courts have granted downward variances under §3553(a) factors including defendant's lack of criminal history, *see United States v. Huckins*, 529 F.3d 1312 (10th Cir. 2008); characteristics of the defendant such as motivation, intelligence, and stability, *see United States v. Autery*, 555 F.3d 864 (9th Cir. 2009); family circumstances of the defendant, *see United States v. Lehmann*, 513 F.3d 805 (8th Cir. 2008); and diminished need to protect the public due to low risk of reoffending, *see United States v. Grossman*, 513 F.3d 592 (6th Cir. 2008). A court may grant a departure and a variance in the same sentence.

“Post-Booker precedent instructs district courts to follow a three-step sentencing process.” *United States v. Gunter*, 462 F.3d 237 (3d Cir. 2006), citing *United States v. King*, 454 F.3d 187 (3d Cir. 2006). First, the district courts must calculate the defendant's Guidelines sentence as they would before *Booker*; second, they must “formally rul[e] on the motions of both parties and stat[e] on the record whether they are granting a departure and how that departure affects the Guidelines calculation, and tak[e] into account [our] Circuit's pre-Booker case law, which continues to have advisory force.” *King*, 454 F.3d at 196; third, they must “‘exercise[] [their] discretion by considering the relevant [§ 3553(a)] factors,’ *Id.* at 194 (quoting *Cooper*, 437 F.3d at 329), in

setting the sentence they impose regardless whether it varies from the sentence calculated under the Guidelines.” *Gunter*, 462 F.3d at 247.

Mr. Mink asserts that there are multiple justifiable reasons for a downward departure and/or variance from the standard sentencing guidelines. Although Mr. Mink submits each individually supports a downward departure or variance, the Court should consider the overall combination in determining the appropriateness of a departure and/or variance in this matter.

FACTORS SUPPORTING DOWNWARD DEPARTURE OR VARIANCE

A. Mr. Mink’s

Mr. Mink's upbringing was marked by significant adversity, including instances of [REDACTED]. His father comes from a prominent family known for their business ventures and ownership of land, while his mother's background is very modest. The circumstances surrounding their marriage initially led to the birth of Mr. Mink's older brother, who is nine years his senior. However, when Mr. Mink's mother unexpectedly became pregnant with him, his father's [REDACTED] became well apparent. Additionally, during Mr. Mink's infancy, [REDACTED], resulting in his mother's decision to separate from him.

Mr. Mink's [REDACTED]. His mother, facing what seemed like an overwhelming task, bravely took on the challenge of providing for her infant and 9-year-old children to the best of her ability. In order to meet their basic needs, she entered the workforce and held various jobs, which required her to be away from home. Consequently, Mr. Mink and his sibling [REDACTED].

While Mr. Mink's older brother played a role in looking after him, their bond did not fully develop until later in life. Consequently, [REDACTED]

[REDACTED] However, he has no regrets about his childhood and instead expresses profound pride and respect for his mother's tireless efforts to provide for the family to the best of her abilities. He recognizes the immense challenges she faced and deeply appreciates her unwavering dedication to their well-being.

Despite his mother's tremendous efforts, Mr. Mink's [REDACTED]

During his time growing up in the trailer park, Mr. Mink often found himself unsupervised. While the community may have seemed familiar and close-knit, the risks and negative influences associated in that environment were present. Compounding the situation, [REDACTED]

Throughout Mr. Mink's life, [REDACTED]

[REDACTED] However, [REDACTED]

[REDACTED]

Despite the pain caused by these neglectful incidents, Mr. Mink does not seek sympathy or use them as excuses. Instead, he draws strength from these experiences and uses them as motivation to become the father he always wanted to have, ensuring that he can provide his child with the love, care, and support he himself never received.

During his adolescence, [REDACTED]
[REDACTED].¹ Sometime later
and while in elementary school, [REDACTED]

[REDACTED] In due course, [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].

To provide him with additional support, [REDACTED]
[REDACTED]
[REDACTED]

¹ During the many months of pretrial detention, [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

Despite receiving additional [REDACTED], at the age of 12, [REDACTED]

[REDACTED]

[REDACTED]. For many

years to follow. Mr. Mink continued to [REDACTED]

[REDACTED] Consequently, when he reached the eleventh grade, [REDACTED]

[REDACTED]

At the age of approximately 22 years old, [REDACTED]

[REDACTED] Fortunately, Ms. Otey

[REDACTED]. Prior to achieving [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Despite the challenging conditions of his confinement, Mr. Mink turned to the faith that was introduced to him during his childhood, finding solace and personal growth through scripture. Embracing his religious beliefs has brought him a sense of peace and has become an important aspect of his personal development journey.

Several courts have found that a downward departure and/or variance from the guidelines are appropriate in cases of [REDACTED]. See e.g., *United States v. Roe*, 976 F.2d 1216, 1218 (9th Cir. 1992) (finding abuse of discretion for failure to grant departure where defendant's [REDACTED] included . . . [REDACTED] [REDACTED]); *United States v. Rivera*, 192 F.3d 81, 85 (2d Cir. 1999) (holding that district courts may properly grant a downward departure on the ground that [REDACTED] that contributed to the defendant's commission of the offense).

Mr. Mink asserts that [REDACTED]

[REDACTED] Nevertheless, these experiences have also instilled in him a deep sense of empathy and a strong drive to be a supportive friend, son, fiancé, and father, always prioritizing the well-being and protection of those around him. It is important to recognize that Mr. Mink's [REDACTED] [REDACTED] played a role in the commission of his offenses on January 6, 2021. His lack of proper decision making and misguided intentions led him to feel he needed to assist individuals both outside and inside the Capitol led him to make regrettable decisions.

In light of these circumstances, Mr. Mink asserts that a downward departure and/or variance from the sentencing guidelines is justified, as outlined in U.S.S.G. § 5H1.3. This provision recognizes [REDACTED] in determining an appropriate sentence. Mr. Mink's [REDACTED] and the impact it had on his actions warrant consideration for a sentence that takes into account these mitigating factors.

B. Mr. Mink's [REDACTED]

Mr. Mink's [REDACTED]

[REDACTED] Specifically, Mr. Mink [REDACTED].

During that time, [REDACTED]. In 2015, Mr. Mink [REDACTED]

[REDACTED]. Mr. Mink's fiancé, Ms. Otey

[REDACTED]. Currently, Mr. Mink [REDACTED]

[REDACTED]

While [REDACTED] are not ordinarily relevant in determining whether a downward departure is warranted, one suffering from a “significantly reduced [REDACTED]” may be eligible for such a departure. *See* U.S.S.G. § 5K2.13. In *United States v. McBroom*, the Third Circuit Court of Appeals reversed the district court and found that the defendant, who had suffered from [REDACTED], and who was diagnosed with an impulse control disorder as [REDACTED] qualified for a downward departure pursuant to section 5K2.13. 124 F.3d 533, 541 (3d. Cir. 1997). Relevant to this decision, the Court noted that the defendant, who had completed law school and was an attorney, was able to “absorb information in the usually way” and “exercise the power of reason.” *Id.* at 549. Rather, despite his cognitive ability, he was unable to exercise control over his own behavior. *Id.*

[REDACTED]

[REDACTED], limited his decision making process and ability to have fully appreciate the consequences his behavior. Mr. Mink has

[REDACTED]

during his life. Mr. Mink's [REDACTED] have directly contributed to his role

in this case as [REDACTED] pushes Mr. Mink into

the only role he knew, which was reactive during a chaotic situation, impulsive, and as a protector.

As a result of the aforementioned circumstances, Mr. Mink asks this Court to consider a downward departure and/or variance from the guidelines pursuant to U.S.S.G. § 5H1.3.

C. Mr. Mink's History of [REDACTED]

At the age of 13, Mr. Mink began [REDACTED]

Between the ages of 15 and 18, Mr. Mink b [REDACTED]

[REDACTED] His [REDACTED]

[REDACTED] *See United States v. Garcia*, 497 F.3d 964 (9th Cir. 2007) (“district courts are not prohibited in all circumstances from considering a defendant’s [REDACTED] in choosing a reasonable sentence”). In 2010, [REDACTED]

[REDACTED] In 2012, [REDACTED]

[REDACTED] After

[REDACTED]

[REDACTED] Thus, Mr. Mink’s [REDACTED]

[REDACTED] Mr. Mink welcomes the opportunity to re-engage in [REDACTED]

[REDACTED]

D. Combination of Factors

“The court may depart from the applicable guideline range based on a combination of two or more offender characteristics or other circumstances, none of which independently is sufficient to provide a basis for departure, only if. . . such offender characteristics or other circumstances, taken together, make the case an exceptional one; and each such offender characteristic or other circumstance is present to a substantial degree, and identified in the guidelines as a permissible ground for departure, even if such offender characteristic or other circumstance is not ordinarily relevant to a determination of whether a departure is warranted.” U.S.S.G. 5K2.0.

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