

Objection to PSI
US v. Michael Dickinson
21-cr-649 (JDB)

1. Page 8, ¶32: Defendant objects to the 4-level enhancement the USPO included in the Draft PSI. The parties did not include it in the plea agreement; the defendant did not stipulate to it; and the parties did not “agree to disagree” in respect of it, i.e., that the government reserved the right to seek it and the defendant reserved the right to oppose it. The parties anticipated a 24-30 month guideline range based on the remaining factors (i.e., base offense level; a 6-level increase for an official victim; a 2-level reduction for acceptance of responsibility, and a further 1-level reduction for taking responsibility in a timely fashion, saving the resources of the Court and government).

An empty coffee mug, thrown at such a distance as the evidence shows here, does not constitute a “dangerous weapon.” The practical effect of the 4-level enhancement is to increase the range to 37-46 months (by almost 50% at the bottom and top ranges).

The parties agreed in the plea agreement not to seek an upward or downward departure from the applicable guideline range. The only exception is that the government reserved the right to seek an upward departure under USSG 3A1.4, n. 4, an enhancement based on terrorism. (Plea Agreement, ECF Doc. 27, page 4). That, however, has nothing to do with dangerous weapons. The government’s election not to include the 4-level enhancement, much less make it a condition of the plea or that it may arguably apply, is evidence that the government does not consider an empty coffee mug to be (or be used as) a dangerous weapon in these circumstances.