

**UNITED STATES DISTRICT COURT
DISTRICT OF IDAHO**

| | | |
|---------------------------------|---|---|
| UNITED STATES OF AMERICA |) | |
| |) | |
| vs. |) | PRESENTENCE INVESTIGATION REPORT |
| |) | |
| LARRY FINE |) | DOCKET NO. 009-19-CR-3333-01 |

Prepared for: The Honorable Learned Handsome

Prepared by: John Augustus
U.S. Probation Officer

Assistant U.S. Attorney
J. Egar Hoover, Esq.

Defense Counsel
Denise Fenderbender, Esq.

Sentence Date: January 1, 2019

Offense: Conspiracy to Distribute and Actual Distribution of Heroin, 21 U.S.C. 846, 841(a) and (b)(1)(A).

Arrest Date: December 24, 2017

Release Status: Detained since arrest.

Detainers: U.S. District Court bench warrant related to charges of violating supervised release.

Other Defendants: Confidential memo will be filed

Date Report Prepared: December 1, 2018

Identifying Data

Date of Birth: 04/01/1990

Age: 27

Race: Black

Gender: Male

Social Security No: 123-
45-678

FBI #: 888888A6

USM #: 12345-055

PACTS #: 8976

Education: GED

Dependents: Unknown

Citizenship: USA

Legal Address: c/o
Defense Attorney

Other defendants: See confidential memo from prosecutors

PART A. THE OFFENSE

Charge and Conviction

1. On November 14, 2018, the defendant appeared before the Honorable Lou Abbot, United States District Judge, and entered a plea of guilty to Counts Four and Five of a seven-count superseding indictment.
2. Count Four charges that, from November 2013 through May 2015 the defendant did knowingly and intentionally conspire and agree with each other and others to distribute, and to possess with intent to distribute, one kilogram or more of a mixture and d substance containing a detectable amount of heroin, a Schedule I controlled substance, contrary to Title 21, United States Code, Sections 841(a) and (b)(1)(A), in violation of Title 21, United States Code, Section 846.
3. Count Five charges that, on November 12, 2013 the did knowingly and intentionally distribute, and possess with intent to distribute, one kilogram or more of a mixture an d substance containing a detectable amount of heroin, a Schedule I controlled substance, in violation of Title 21, United States Code, Sections 841(a) and (b)(1)(A), and Title 18, United States Code, Section 2.
4. Pursuant to written plea agreement and Rule 11(c)(1)(C), the government and agree that a specific sentence or sentencing range is the appropriate disposition of the case, or that a particular provision of the Sentencing Guidelines, or policy statement, or sentencing factor does or does not apply. Such a recommendation or request binds the Court once the Court accepts the plea agreement. Any remaining counts against are to be dismissed at sentencing.

Codefendant and Related Defendants

5. Due to the ongoing nature of the investigation into the case, the Government has requested that this report not specify codefendants and related defendants. Instead, the U.S. Attorney's Office will file and update on all codefendants and related defendants via a memo filed under seal.

Pretrial Adjustment

6. The defendant has been in continuous custody since the date of arrest and has not been subject to the supervision of Pretrial Services. While detained in the custody of the Federal Bureau of Prisons he has subject to disciplinary proceedings for possession of a dangerous weapon and possessing a hazardous "tool" in July 2018. He was previously disciplined in

October 2016 for fighting with another inmate.

The Offense Conduct

7. The Sesame Street Crips is a nationwide street gang founded in the Kermit the Frog originally in public housing complex in Los Angeles, California. Over time, the gang grew in sophistication and reach, eventually have operations coast to coast. The gang developed rules related to recruitment, discipline, criminal activity and money distribution.

8. The hierarchical power structure in which members are given designations or ranks signifying their status within the gang, which ranks include, from senior rank to junior rank, "OOOG" (Triple OG; "OG" is short for "Original Gangster"); "OOG" (Double OG); "OG"; "G"; "BG" (Baby Gangster); followed by "overseers," "enforcers," and, individual members, who are referred to as "soldiers." A system of discipline and punishment for those members who violated rules, failed to carry out orders from higher-ups, or "disrespected" the gang, in which offending members could be stripped of rank, placed on probationary status, and/or physically assaulted or killed; and a system of incentives in which members who desired to maintain, or rise in, rank and stature within the Sesame Street Crips were expected and required to "put in work," which meant engaging in murders, shootings, physical assaults, intimidation, drug trafficking, robberies, extortion, and other criminal activities.

9. As noted, the rules governing the Sesame Street Crips provide that members of the Enterprise must retaliate against individuals who cooperate with law enforcement against the GSC. As a result of these rules, members of the GSC routinely engage in acts of intimidation and violence against witnesses, individuals who are believed to be cooperating with law enforcement, and law enforcement officers themselves.

10. Members of the Sesame Street Crips routinely use social media (including YouTube and Instagram), cellular telephones, and other means: (i) to publicly identify individuals who are cooperating, or who have previously cooperated, with law enforcement; (ii) to issue threats against individuals who are cooperating with law enforcement; and, (iii) to disseminate messages intended to dissuade individuals and witnesses from cooperating with law enforcement. For example: in March 2015, law enforcement officers lawfully intercepted wire communications of a member of the Sesame Street Crips who had been charged by the Prosecutor's Office with, among other things, aggravated assault with a deadly weapon in connection with a shooting.

11. During a drug trafficking investigation, law enforcement obtained information that the third-floor apartment of ("the Building") was being used as a heroin mill. On November 12, 2013, law enforcement established surveillance around the Building and observed several individuals knocking on the Building's front door, being granted entry into the Building, and walking up to the third-floor apartment ("the Apartment").
58. went to the Building on November 12, 2013 and rang the front doorbell of the

Building several times but no one answered. As [redacted] began to walk away, law enforcement agents approached [redacted] and identified themselves. Upon obtaining consent, the agents searched [redacted] and found, among other things, a key that law enforcement later discovered unlocked the bottom lock of the Apartment's front door. 59. While law enforcement agents confronted [redacted] an undercover agent rang the doorbell of the Building. A female inside the Building came to the front door and opened it. At that time, several agents entered the Building. As those agents climbed the stairs to the Apartment, agents outside the Building secured the area to prevent anyone from entering or exiting the Building. The agents inside the building knocked on the Apartment's front door and identified themselves as law enforcement. After the agents announced their presence, a commotion ensued inside the Apartment, and two males jumped out of a window.

12. A subsequent search of the Apartment revealed the following: (a) a substance resembling heroin, stored loosely and in freezer bags; (b) boxes of glassine envelopes; (c) small coffee spoons; (d) a digital scale with heroin residue; (e) sifters; and, (f) heroin packaged in envelopes stamped "Obamacare." Law enforcement also found mail addressed to inside the Apartment. In total, law enforcement found over one kilogram of the substance that resembled heroin inside the Apartment. Law enforcement field-tested the substance and confirmed that it was heroin.

13. While outside, [redacted] told law enforcement that [redacted] had a medical condition and asked agents to retrieve [redacted] medication from [redacted] apartment, also located in [redacted]. Law enforcement agents entered [redacted] apartment and proceeded to retrieve the medication from the refrigerator in the kitchen, in accordance with [redacted] instructions. Lying in plain view in the kitchen were clear freezer bags containing a substance resembling heroin and one glassine envelope stamped "Obamacare," which matched the stamped heroin packages found at the Apartment. Law enforcement field-tested the substance in the freezer bags and confirmed it was heroin.

14. Within months of [redacted] release from federal prison, and while on federal supervised release, in approximately late April/early May 2014, [redacted] met an individual at a location in [redacted] and sold that individual approximately one kilogram of heroin in exchange for \$70,000 in cash. Subsequently, on September 12, 2014, [redacted] sold to a confidential informant more than 60 bricks of heroin in exchange for \$9,600. This purchase took place in [redacted] was arrested on May 13, 2015. Based on information developed during the investigation of [redacted] offense, the government indicates [redacted] is responsible for the distribution of between approximately 450 to 500 kilograms of heroin between 2003 and 2012. However, in accordance with the plea agreement stipulations, the defendant will be held accountable, conservatively, for the distribution of at least ten kilograms of heroin.

Victim Impact

15. No identifiable victims from the offense have come forward. The societal costs, especially those attributed to the defendant's conduct versus other drug traffickers, cannot be calculated.

Adjustment for Obstruction of Justice

16. The probation officer has no evidence the defendant has, or even attempted, to obstruct justice. .

Adjustment for Acceptance of Responsibility

17. The defendant was interviewed by the probation officer, at which time affirmed that made a truthful plea allocution and is guilty of the charges to which so pled. No further statements were made.

Offense Level Computation

18. The 2018 Guidelines Manual, incorporating all guideline amendments, was used to determine the defendant's offense level. USSG §1B1.11.
19. Counts 4 and 5 are grouped for guideline calculation purposes because they involve the same victim and the same act or transaction. USSG §3D1.2(a). Counts 4 and 5 are grouped for guideline calculation purposes because the offense level is determined largely on the basis of the total amount of harm or loss, the quantity of a substance involved, or some other measure of aggregate harm, or if the offense behavior is ongoing or continuous in nature and the offense guideline is written to cover such behavior. USSG §3D1.2(d).
20. Base Offense Level: The guideline for a violation of 21 U.S.C. § 846 is USSG §2D1.1. The base offense level is 34, for those offenses involving at least ten kilograms of heroin. USSG §2D1.1(a)(5). 34
21. Specific Offense Characteristics: The defendant maintained a premises for the purpose of manufacturing or distributing a controlled substance. Two levels are added pursuant to USSG § 2D1.1(b)(12). +2
22. Adjustment for Role in the Offense: The defendant was an organizer or leader of a criminal activity that involved five or more participants or was otherwise extensive; therefore, four levels are added. USSG §3B1.1(a). +4
23. Victim Related Adjustment: None. 0
24. Adjustment for Acceptance of Responsibility: The defendant has clearly

demonstrated acceptance of responsibility for the offense. Accordingly, the offense level is decreased by two levels. USSG §3E1.1(a). The defendant has assisted authorities in the investigation or prosecution of the defendant's own misconduct by timely notifying authorities of the intention to enter a plea of guilty. Accordingly, the offense level is decreased by one additional level. USSG §3E1.1(b). **-3**

25. Adjustment for Acceptance of Responsibility: **-0**

26. Total Offense Level: **37**

PART B. THE DEFENDANT'S CRIMINAL HISTORY

Juvenile Adjudication(s)

Adult Conviction(s)

| | | | |
|----------------------|---|---|----------|
| 04/07/10 (Age 25) | Conspiracy to Distribute and Possess with Intent to Distribute Heroin | 01/11/2012 33 months' imprisonment; 3 years' supervised release; \$3,000 fine; \$100 Special Assessment 01/28/2014: Released on supervised release 05/20/2015: Violation of Supervised Release filed - pending | 4A1.1(a) |
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27. Beginning in October 2009, special agents with the Drug Enforcement Administration (DEA) investigated a large drug heroin distribution ring led by the defendant and Big Bird McGreedy. During the investigation, approximately seven kilograms of heroin were recovered from associates of the defendant. Large sums of cash were also recovered, including approximately \$339,000 from the defendant's home.

Other Criminal Conduct

28. As reported above, while in custody the defendant has been cited for fighting another inmate and weapons possession. Prison officials advised that the weapon was a "shank"

fashioned from a fork stolen from the cafeteria area of the detention facility.

Pending Charges

29. Violation of supervised release charges are pending against the defendant, as noted in paragraph

Criminal History Computation

30. The defendant has a criminal history category of IV.

PART C. OFFENDER CHARACTERISTICS

31. In light of the defendant's ongoing cooperation with the government, prosecutors and the defense requested that no updated personal history information appear in this report. Instead, a copy of the previous presentence report completed on him in 2012 will be attached with the defense submitting an update on the defendant via a memorandum filed under seal.

32. The probation office notes this report is used for more than just sentencing but by the Bureau of Prisons for designation, probation officials to enforce any community supervision term imposed, and by the U.S. Attorney's Office Civil Division to collect any fines and assessments imposed. The absence of updated personal history information from the defendant, therefore, may complicate enforcement of whatever sentence is imposed by the court.

PART D. SENTENCING OPTIONS

Custody

33. Statutory Provisions: Count 4: The minimum term of imprisonment is 10 years and the maximum term is life. 21 U.S.C. § 841(b)(1)(A). Count 5: The minimum term of imprisonment is 10 years and the maximum term is life. 21 U.S.C. § 841(b)(1)(A).

34. Guideline Provisions: Based upon a total offense level of 37 and a criminal history category of IV, the guideline imprisonment range is 292 months to 365 months.

Impact of Plea Agreement

35. There is a plea agreement in the case, pursuant to Rule 11(c)(1)(C). If the Court adopts the terms of the plea agreement, the sentence to be imposed would be 12 years (144 months) imprisonment and five years' supervised release. The stipulated sentence does not fall within the

guideline range calculated by the Probation Office. If the Court determines there are no valid grounds for a departure or a variance outside of the guideline range determined by the Probation Office, and adopts the Probation Office's guideline calculation, the Court may need to consider giving the parties an opportunity to be relieved of the terms of the plea agreement and the parties will be returned to the status prior to the entry of the plea.

Supervised Release

36. Statutory Provisions: Statutory Provisions: Count 4: The Court must impose a term of supervised release of at least five years. 21 U.S.C. § 841(b)(1)(A). Count 5: The Court must impose a term of supervised release of at least five years. 21 U.S.C. § 841(b)(1)(A). Multiple terms of supervised release shall run concurrently . 18 U.S.C. § 3624(e).
37. Guideline Provisions: Count 4: The guideline term of supervised release is five years . USSG §5D1.2(c). Count 5: The guideline term of supervised release is five years. USSG §5D1.2(c).

Probation

- Statutory Provisions: Count 4: The defendant is ineligible for probation because it is
38. expressly precluded by statute. 21 U.S.C. § 841(b)(1)(A). Count 5: The defendant is
39. ineligible for probation because it is expressly precluded by statute. 21 U.S.C. § 841(b)(1)(A).
40. Guideline Provisions: Count 4: The defendant is ineligible for probation because
41. probation has been expressly precluded by statute. USSG §5B1.1(b)(2). Count 5: The
42. defendant is ineligible for probation because probation has been expressly precluded by statute. USSG §5B1.1(b)(2).

Fines

43. Statutory Provisions: Count 4: The maximum fine is \$10,000,000. 21 U.S.C. §
44. 841(b)(1)(A). Count 5: The maximum fine is \$10,000,000. 21 U.S.C. § 841(b)(1)(A). Count 4: A special assessment of \$100 is mandatory. 18 U.S. C. § 3013. Count 5: A special assessment of \$100 is mandatory. 18 U.S.C. § 3013.

PART E: BASIS FOR DEPARTURE FROM THE GUIDELINES

45. None

PART F: BASIS FOR VARIANCE FROM THE GUIDELINES

46. None

RESPECTFULLY SUBMITTED:

HORATIO HORNBLOWER
CHIEF U.S. PROBATION OFFICER

Prepared by:

John Augustus
U.S. Probation Officer

Approved by:

Elvis Costello
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