

STATE OF VERMONT

SUPERIOR COURT
Rutland Unit

CRIMINAL DIVISION
Docket No. [REDACTED]

STATE OF VERMONT

v.

[REDACTED]
Defendant

DEFENDANT'S SENTENCING MEMORANDUM

NOW COMES Defendant [REDACTED] by and through counsel, William Vasiliou, Esq., of the law firm Langrock, Sperry & Wool, LLP, and hereby submits the following sentencing memorandum.

Background

Mr. [REDACTED] was born on August 19, 1973. He is 52 years old. Mr. [REDACTED] is a native of Manchester, Vermont. His parents divorced when he was eight years old. Despite a tumultuous relationship with father earlier in life, they have developed a strong and healthy bond. Mr. [REDACTED] has always maintained a positive relationship with his mother. Mr. [REDACTED] upon release, has housing to return to in [REDACTED] Vermont as well as local familial support.

On December 5, 2024, Mr. [REDACTED] reported to his probation officer at [REDACTED] Probation and Parole. At that appointment, the Vermont State Police arrested Mr. [REDACTED]. He was immediately transported to the [REDACTED] Vermont State Police Barracks for questioning, and then, he was transported to the Court for an arraignment in [REDACTED]. Mr. [REDACTED] was charged with two counts of aggravated domestic assault, first degree, as well as habitual offender enhancements for each count. Additionally, the State submitted violations of

probation in [REDACTED]. All the dockets were set for a weight of the evidence hearing.

On December 12, 2024, the State, before the weight of the evidence hearing commenced, dismissed the pending violations of probation in docket numbers [REDACTED] and [REDACTED]. As such, Mr. [REDACTED] will only receive credit for the time he served from the date of his arrest on December 5, 2024 to the dismissal of those violations on December 12, 2024. A total of eight (8) days.

During the weight of the evidence hearing, Mr. [REDACTED] challenged the strength of the State's evidence. Specifically, Mr. [REDACTED] highlighted the fact that the complaining witness tried correcting her original statement within three days of giving it, the complaining witness was not afraid of Mr. [REDACTED] and the complaining witness wanted contact with him. Moreover, Mr. [REDACTED] demonstrated that he had an alibi witness, and law enforcement never made any attempts to communicate with that individual.

On December 17, 2024, the Court issued an order holding Mr. [REDACTED] without bail.

Over the next few months, the complaining witness communicated to the State that she mistakenly identified Mr. [REDACTED]. During that same period, the complaining witness and Mr. [REDACTED] spoke on the phone a number of times. Most of those phones were cordial.

On May 28, 2025, Mr. [REDACTED] was charged with violating his conditions of release, obstruction of justice, and probation violations were filed in [REDACTED] [REDACTED].

On June 2, 2025, Mr. [REDACTED] was arraigned on the new offenses and the alleged violations of probation. Mr. [REDACTED] entered not guilty pleas and requested imposition of a cash

bail in [REDACTED]. The Court imposed the requested cash bail, and released Mr. [REDACTED] on his own recognizance in [REDACTED].

On October 15, 2025, Mr. [REDACTED] pled guilty to obstruction of justice and six counts of violating his conditions of release in [REDACTED]. Mr. [REDACTED] further admitted to violations of probation based upon those new convictions. In exchange, the State agreed to several terms, including the outright dismissal of [REDACTED]. That dismissal means Mr. [REDACTED] will not receive any credit for the time he served between December 12, 2024 and May 28, 2025, and he may only receive credit in [REDACTED] for the time he served between [REDACTED], 2025 and the present.

Available Sentencing Range

Mr. [REDACTED] statutory sentencing range is as follows:

- 1) [REDACTED]:
 - a. Count 1: aggravated domestic assault, first degree, and habitual offender enhancement to be dismissed. ***There is no available sentence to be imposed.***
 - b. Count 2: aggravated domestic assault, first degree, and habitual offender enhancement to be dismissed. ***There is no available sentence to be imposed.***
- 2) [REDACTED]:
 - a. Count 1: obstruction of justice to which Mr. [REDACTED] entered a no contest plea. The available prison sentence is zero to five years.
 - b. Counts 2-7: violations of conditions of release to which Mr. [REDACTED] entered guilty pleas. The available prison sentence for each offense is zero to six months.
- 3) [REDACTED]:

- a. Mr. [REDACTED] plead guilty to violating the terms of probation. The basis for the admission were his pleas in [REDACTED]. The Court has the option to modify Mr. [REDACTED] probation conditions, re-split his sentence, or revoke his probation. The underlying sentence is two to five years. Mr. [REDACTED] has served his minimum sentence.

4) 1001-9-19 Rdc:

- a. Mr. [REDACTED] plead guilty to violating the terms of probation. The basis for the admission were his pleas in [REDACTED]. The Court has the option to modify Mr. [REDACTED] probation conditions, re-split his sentence, or revoke his probation. The underlying sentence is zero to two years. Mr. [REDACTED] has served his minimum sentence.

As part of a plea agreement, the State agreed to limit their recommended sentence to two to ten years in prison.

Mr. [REDACTED] is seeking a sentence of time served in [REDACTED] and a continuation of his probation in [REDACTED] and [REDACTED].

Sentencing Analysis

I) Applicable Law

Pursuant to 13 V.S.A. § 7030, in determining an appropriate sentence, the Court shall, “consider the nature and circumstances of the crime; the history and character of the defendant; the defendant’s family and relationships; the impact of any sentence upon the defendant’s minor children; the need for treatment; and the risk to self, others, and the community at large presented by the defendant.”

Additionally, in tailoring a sentence for Mr. [REDACTED] the Court should also consider other relevant factors. State v. Rodriguez, 2023 VT 59, ¶ 14. Other factors may include the circumstances and length of Mr. [REDACTED] pretrial detention, consideration of the equal protection clause of the 14th Amendment to U.S. Constitution, consideration of the proportionality clause of Chapter II, § 39 of the Vermont Constitution, specific and general deterrence, punishment, acceptance of responsibility, etc.

In weighing all the referenced factors, the Court has discretion to impose a sentence within the statutorily authorized range, including the imposition of concurrent or consecutive sentences. However, the Court should be mindful of whether the imposed sentence is disparate to sentences imposed upon similarly situated individuals.

II) Sentencing Factors

a. Statistical Data and Pretrial Detention

A SAC “is a state-level organization created to collect, analyze, and report statistics on crime and justice to Federal, state, and local levels of government, and to share state-level information nationally.”¹ Vermont’s SAC was under the Vermont Center for Justice Research (VCJR) until 2014.² It was then moved to the Vermont Department of Public Safety.³ The VT Department of Public Safety then contracted with a non-profit organization, Crime Research Group (CRG), to perform the obligations of a SAC.⁴ For context, CRG was formed in 2014

¹ See Exhibit A Vermont’s Statistical Analysis Center (SAC) & Crime Research Group (CRG): Frequently Asked Questions, attached hereto and incorporated herein as “Exhibit A”.

² Id.

³ Id.

⁴ Id.

with staff from VCJR.⁵ Currently, CRG is the only organization in Vermont that focuses on crime-related data analyses, research, and evaluation.⁶

Here, Mr. [REDACTED] obtained the sentencing data for individuals convicted of violating their conditions of release. The date range for the data is 2017 to 2024.⁷ The following table contains averages for the relevant sentencing data.⁸

Averages - All Sentence Types	0.14	0.51	7	69
Averages Converted to Months	1.72	6.17	N/A	N/A
Averages - Straight Sentences	0.09	0.33	N/A	215
Averages - Straight Converted to Months	1.10	3.96	N/A	215
Averages - Split	0.16	0.43	43	6
Averages - Split Converted to Months	1.92	5.14	N/A	N/A
Averages for Deferred	0.47	1.75	0	10
Averages - Deferred to Converted Months	5.63	20.95	N/A	N/A
Averages - Probation	0.10	0.42	0	123
Averages - Probation Converted to Months	1.20	5.07	N/A	N/A
Averages - Fine Only	0	0	0	30

Based on this data, individuals who received a straight sentence for violating their conditions of release had the largest number of charges and served the longest prison sentences.

Specifically, those individuals received an average sentencing range of between 1.1 months to 3.96 months, with the average number of charges per defendant totaling 215.⁹ Comparatively,

⁵ Id.

⁶ Id.

⁷ The data involves convictions under 13 V.S.A. 7559(e), which was subsumed by the amendments to V.R.Cr.P. 42 in 2024.

The data for obstruction of justice convictions was not available to undersigned at the time of writing this memorandum.

⁸ See Exhibit B data received from CRG

⁹ Although not specifically stated in the data it is safe to assume those individuals plead to additional charges.

Mr. [REDACTED] plead guilty to six counts of violating his conditions of release and obstructing justice.

With that said, Mr. [REDACTED] has already served time for which he will not receive credit from the DOC. With the dismissal of all the charges in [REDACTED], Mr. [REDACTED] will not receive credit for the one hundred and eighty (180) days he served between [REDACTED], 2024 and [REDACTED] 2025. That is true for both his new convictions and his violations of probation. Concerning the probation violations, the referenced days served will not count, because the State dismissed the first set of violations on [REDACTED], 2025 and did not file the plead to violations until [REDACTED], 2025.¹⁰ Regarding Mr. [REDACTED] new convictions, he will not receive credit for one hundred and eighty-seven (187) days, because in addition to the referenced days served, the days served between [REDACTED] 2024 and [REDACTED], 2024 do not apply. Moreover, Mr. [REDACTED] served an additional one hundred and forty-seven (147) days between [REDACTED] and [REDACTED] 2025, which will not count towards his new convictions. Effectively, if the Court were to follow the State's sentencing recommendation, Mr. [REDACTED] would convert into furlough status with zero consideration of some, if not all, of the time he has already served. In total, Mr. [REDACTED] has served three hundred and thirty-four (334) days in prison.

Mr. [REDACTED] asserts that is more than enough prison time to sufficiently punish him and protect the public for obstructing justice and violating his conditions of release. The time that Mr. [REDACTED] has served is significantly greater than the statistical averages presented herein, which is one of the many reasons a time served sentence for his new convictions is appropriate.

¹⁰ Note: Mr. [REDACTED] was not arraigned on the plead to violations of probation until June 2, 2025.

Mr. [REDACTED] further asserts that the conduct for which he was originally held is being dismissed with prejudice, and the conduct giving rise to his convictions involved phone calls to the complaining witness. Without offering excuses, Mr. [REDACTED] respectfully reminds the Court that the complaining witness corrected her original statement to law enforcement within hours of giving it¹¹, she submitted a sworn statement to that effect on December 5, 2024, and she informed the State over a period of months that she did not want Mr. [REDACTED] prosecuted. Moreover, at the weight of evidence hearing on December 12, 2024, the complaining witness testified that she did not have any fear of Mr. [REDACTED] and *she indicated that she would like to have contact with him.*¹²

Mr. [REDACTED] further asserts that, since this Court modified his conditions of release on June 2, 2025, the complaining witness and Mr. [REDACTED] have spoken on the phone as well as visited in person numerous times without incident.

When considering all these facts against the relevant sentencing considerations, Mr. [REDACTED] time served is more than sufficient to satisfy those considerations. Moreover, under Mr. [REDACTED] sentencing recommendation, he would remain on probation until further order of the Court, which more than balances the need to punish against the need for rehabilitation.

b. Department of Corrections' Policies

The Court should also consider several DOC policies that, if the Court accepts the State's sentencing recommendation, will increase the amount of time that Mr. [REDACTED] serves in prison beyond his minimum sentence. Specifically, Mr. [REDACTED] directs the Court to: 1) DOC

¹¹ The complaining witness sent a text to the arresting officer in this case.

¹² Exhibit C: Weight of the Evidence Hearing starting at 1:40:00 minute mark and ending at 1:41:55 mark.

Policy #348: Community Supervision; and 2) DOC Policy #371.10: Risk Containment Policy.¹³

As it relates to Policy #348, Mr. [REDACTED] misdemeanor warrant from Colorado as well as the DOC's recommendation for risk reduction programming are two factors that preclude certainty and finality in the sentencing process.

Pursuant to page 4 of the referenced policy, an individual is not eligible for Community Supervision Furlough (CSF) if they have an outstanding warrant. Through recent exchanges with the DOC, Mr. [REDACTED] confirmed that his [REDACTED] warrant is incorrectly identified as extraditable.

However, despite that confirmation, if the Court revokes Mr. [REDACTED] probation or sentences him to a "to serve" sentence in [REDACTED], the DOC will still conduct a case staffing to determine whether Mr. [REDACTED] should be held. The DOC will not confirm whether it will hold Mr. [REDACTED] with an active warrant. If the DOC holds him, Mr. [REDACTED] would be without recourse. Specifically, Colorado cannot lodge a detainer against Mr. [REDACTED] for a non-extraditable warrant, which means Mr. [REDACTED] cannot force Colorado to retrieve him under the Interstate Compact on Detainers. As such, Mr. [REDACTED] would be held until he reaches his maximum sentence date, which would be in the year 2033, if the Court adopted the State's sentencing recommendation.¹⁴

Moreover, the DOC, under the same policy, has indicated that Mr. [REDACTED] should undergo risk reduction programming, while incarcerated. This is problematic for several

¹³ Exhibit D: DOC Policy #348; and Exhibit E: DOC Policy #371.10

¹⁴ Mr. [REDACTED] current maximum sentence date for [REDACTED] and [REDACTED] is in [REDACTED] of 2030. If the Court accepted the State's sentencing recommendation, it would add three years to that maximum sentence. Mr. [REDACTED] through counsel, obtained his maximum date from the DOC.

reasons. First, the risk reduction programming is not readily available. Mr. [REDACTED] will most likely serve an additional eighteen (18) months between his case staffing, program screening, program enrollment, and program completion. In considering the time that Mr. [REDACTED] has served thus far, an additional eighteen (18) months is disproportionately harsh when compared to other similarly situated individuals. Second, the risk reduction programming is more designed to address behavior that Mr. [REDACTED] did not engage in as shown through an alibi witness, the retaining of a forensic chemist, and the State's dismissal of [REDACTED]. Third, Mr. [REDACTED] sentencing recommendation is for the Court not to revoke his probation, which in turn, would provide Mr. [REDACTED] with the same or similar rehabilitative opportunities in the community.

As it relates to Policy #371.10, the DOC has adopted a policy that was not subjected to rule making procedures, and in effect, has significantly increased the DOC's power to detain individuals well past their minimum sentence date. Pursuant to page 2 of the policy, the DOC may identify an individual for risk-containment, if the offense for which the individual has been classified is a: 1) a felony; and 2) in the DOC's discretion, the individual falls into one of several broadly defined categories. After an individual is identified for potential risk containment classification, the Central Office may determine that a forensic evaluation is needed.¹⁵ If the individual refuses that evaluation, the individual receives a provisional risk containment classification that is seemingly indefinite. Mr. [REDACTED] asserts that the even a remote possibility of him being identified for risk containment classification is an excessive punishment for his conduct. The fact remains that he made several impermissible phone calls

¹⁵ Page 4 of Policy #377.10

to the complaining witness, who wanted contact with him through the entirety of the legal process. Those calls should not warrant an incarceration until June of 2030 or a later date.

c. Risk Reduction Facts

Mr. [REDACTED] has housing. The DOC has approved its location on more than one occasion.

Under Mr. [REDACTED] probation conditions, he is still subject to community supervision.

Moreover, the only difference between supervision on probation versus furlough is that the former requires Court involvement before an individual is returned to prison.

Mr. [REDACTED] is also amendable to the Court modifying the terms of probation in any way the Court deems appropriate.

d. Mitigating Legal Factors

Mr. [REDACTED] wishes to note two issues to which the Court should give consideration.

First, Mr. [REDACTED] provided the State with an alibi witness as well as a report from forensic chemist and toxicologist, Darcy Richardson. The alibi witness was discussed at the weight of the evidence hearing, and subsequently, an affidavit was provided to the State outlining the fact that Mr. [REDACTED] was at a different location on the morning of December 2, 2024.¹⁶ Second, Darcy Richardson concluded that the complaining witness would have experienced substantial impairment at the time of the alleged assault due to her being under the influence of alcohol and recently coming down from a binge session with cocaine.

Second, Mr. [REDACTED] notes that he pled no contest to obstructing justice. Whereas under a specific set of facts the State could meet its evidentiary burden, it is critical to recall that the complaining witness clarified her original statement to law enforcement within the three-day window law enforcement gave her. In short, Mr. [REDACTED] jail calls were not intended to force

¹⁶ Exhibit F: Notice of Alibi and Affidavit

the complaining witness to change her statement, because by the time the calls occurred, the complaining witness already corrected her statement.

Mr. [REDACTED] is raising these legal issues, because he hopes the Court recognizes that the dismissal of charges was based on more than a recanting complaining witness.

Conclusion

The parties have always disagreed over an appropriate punishment. When Mr. [REDACTED] was finally given an opportunity to argue for the continuation of his probation, he accepted responsibility for his actions. Ultimately, punishment for a crime should serve the ends of justice, and it should focus on the conduct for which an individual is convicted. Mr. [REDACTED] new convictions should receive a sentence of time served, and for the foregoing reasons, he should remain on probation.

DATED at Middlebury, Vermont this [REDACTED] 2023.

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