

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)	
)	
V.)	
)	Criminal No: 23-10256-IT
ROYAL BENJAMIN,)	
Defendant.)	

GOVERNMENT’S SENTENCING MEMORANDUM

The United States submits this Sentencing Memorandum to aid the Court in sentencing Royal Benjamin. The United States agrees with United States Probation’s calculations that Mr. Benjamin’s Guideline Sentence Recommendation (“GSR”) is 70 to 87 months. In consideration of the sentencing factors in 18 U.S.C. § 3553(a), Mr. Benjamin’s terrifying criminal record, and his risk of recidivism, the United States asks the Court to impose a sentence of imprisonment of not less than 87 months to be followed by three years of supervised release. The United States also asks the court to order Mr. Benjamin to restitution to JP Wireless in the amount of \$592.00.

The United States believes that a sentence at the top end of the GSR is warranted given the number of serious convictions and sentencings in Mr. Benjamin’s criminal history that are too old to be counted in calculating his CHC.¹ U.S. Probation determined that Mr. Benjamin falls within CHC IV. This calculation was based on the following convictions and

¹ The primary reason the United States is not requesting an upward departure pursuant to USSG § 4A1.3 based on the inadequacy of the Mr. Benjamin’s criminal history calculation is his age.

sentencings: a 2001 conviction in Suffolk Superior Court for Armed Robbery, for which he was sentenced to 7 to 9 years (3 points), a 2010 conviction in Suffolk Superior Court, for which he was sentenced to 10 to 12 years (3 points), and a 2023 conviction in the Boston Municipal Court for Carrying a Firearm without a license (originally charged as Armed and Masked Robbery), for which he received a sentence of 90 days (3 points).

Mr. Benjamin has numerous other serious convictions too old to be counted, they include the following: a 1978 conviction in Alabama for Strong Armed Robbery, for which he was sentenced to 10 years (he escaped and apparently never completed his sentence), a 1981 conviction in the Roxbury District Court for Assault Dangerous Weapon, for which he received a sentence of “Filed,” a 1982 conviction in the Suffolk Superior Court for Armed Robbery, for which he was sentenced to 4 to 6 years, a 1982 conviction in Suffolk Superior Court for Manslaughter (originally charged as Murder) and Armed Robbery, for which he received a sentence of 18 to 20 years, and 1994 convictions in the Suffolk Superior Court for Robbery and Possession of a Class B controlled Substance, for which he received a sentence of 4 to 6 years. If the above-described convictions and sentences were not too old to be counted, an additional 12 criminal history points would be added to the 9 criminal history points now listed in the PSR, for a total of 21 criminal history points. A defendant with 13 or more criminal history points falls within CHS VI.

Mr. Benjamin’s criminal history spans from the time he was 18 years old to the present. He is now 64 years old. He received significant sentences at 18 (10 years), 21 (4 to 6 years), 22 (18 to 20 years), 34 (4 to 6 years), 40 (7 to 9 years), 48 (10 to 12 years), and 62 (90 days). While the court undoubtedly has heard the argument that crime is a young man’s game and

that with age and maturity comes a reduction in criminal recidivism, that is not the case with Mr. Benjamin. The only significant breaks in Mr. Benjamin's criminal record occurred when he was incarcerated. The government's request for an 87-month sentence is reasonable given the facts of the case of conviction, Mr. Benjamin's criminal record, and his ongoing threat to the safety of the community, which shows no signs of abating.

An evaluation of the sentencing factors articulated in 18 U.S. 3553(a) supports the government's request for a sentence of not less than 87 months.

Sentencing Factors Under § 3553(a)

Section 3553(a) of Title 18 enumerates the factors the Court must consider when determining an appropriate sentence. 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, and 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 court also must consider the need for the sentence to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment.

Nature and Circumstances of Offense

On March 20, 2023, Mr. Benjamin robbed an individual in the Downtown Crossing subway station of a bag containing two pairs of Puma sneakers. Mr. Benjamin then traveled to JP Wireless in Jamaica Plain and offered to sell the sneakers to a store employee. When the store employee stated he did not want to buy the sneakers, Mr. Benjamin moved toward the store exit but then turned around, removed a firearm from his waistband, and rushed behind

the counter, pointing the handgun at the store employee (when the handgun believed to have been used by Mr. Benjamin was seized by police on March 27, 20034, it was loaded with approximately seven bullets). Once behind the counter, Mr. Benjamin approached the register, and took \$594.00 in U.S. currency that was sitting on top of the register. The money was sitting on top of the register because prior to the robbery, the store employee had been in the process of closing the store.

Mr. Benjamin then opened the cash register drawer and removed the drawer. He dropped the drawer and its contents on the ground and left it there (Mr. Benjamin's fingerprints were located on the cash register drawer). Mr. Benjamin then fled the store, threatening to harm and shoot the store employee, stating, "I'll fuck you up. I'll fucking shoot you."

After his arrest on March 27, 2023, Mr. Benjamin denied any involvement in the JP wireless robbery. As the Court is aware, Benjamin ultimately admitted his involvement in the JP Wireless robbery and pleaded guilty. During the same interview, Benjamin admitted to robbing the Metro Credit Union on Massachusetts Avenue in Boston. On February 4, 2023, at approximately 11:48 a.m., a suspect entered the credit union, approached a teller, stated "hurry up and give me the money"¹ and then brandishing a black handgun, pointing it in the teller's direction. The suspect was wearing a mask over his mouth. The teller handed the suspect the money from the cash draw totaling \$1,442. The suspect then fled from the bank on foot. The teller reported that she feared being shot. Mr. Benjamin has not been charged with the Metro

¹ The Boston Police Report states that the suspect stated, "hurry up and give me the money." The FBI report stated that the suspect stated, "give me the money hurry up."

Credit Union robbery. The government asked Probation to consider the robbery as relevant conduct.

The JP Wireless robbery to which Mr. Benjamin pleaded guilty must have been a horrifying experience for the victim store employee. Similarly, when Mr. Benjamin robbed the Metro Credit Union less than two months before the JP Wireless robbery, the victim teller was terrified. It is remarkable that in a relatively brief period of time Mr. Benjamin committed the following three robberies: 1. Metro Credit Union; 2. The robbery of the two pairs of sneakers from a person in the subway station (Mr. Benjamin was prosecuted and convicted for this crime; and 3. JP Wireless.

The danger of wielding a firearm at a robbery cannot be overstated. More than almost anyone, Mr. Benjamin knows the risks associated with the use of a firearm during a robbery. As noted above, in 1982, Mr. Benjamin was charged with Murder and Armed Robbery. He ultimately pleaded guilty to Manslaughter and Armed Robbery and was sentenced to 18 to 20 years in state prison. Mr. Benjamin, his brother Robert Benjamin, and a third man, Steven Henderson, robbed a taxi driver in Dorchester, Massachusetts. According to the Supreme Judicial Court's decision upholding Robert Benjamin's First-Degree Murder conviction, the three men decided to rob the taxi driver.¹ As they were riding in the taxi, Royal Benjamin handed his brother a handgun. When the three exited the taxi, Robert Benjamin shot the taxi driver in the head, pulled him from the taxi, and stole \$7. The money was divided between Royal Benjamin, Robert Benjamin, and Steven Henderson. Despite receiving an 18 to 20

¹ See *Commonwealth v. Robert Benjamin*, 399 Mass. 220 (1987), a copy of which is attached.

year-sentence for his participation in this crime, Mr. Benjamin did not reform his criminal ways.

The History and Characteristics of the Defendant

As noted above, Mr. Benjamin has an atrocious criminal record. Repeated lengthy sentences of incarceration have done nothing to deter him from committing serious violent crimes upon his release from incarceration. This is no reason to believe that Mr. Benjamin will ever cease to be a threat to public safety.

The Sentence Must Reflect the Seriousness of the Offense, Promote Respect for the Law, Provide Just Punishment for the Offense, Afford Adequate Deterrence to Criminal Conduct, and to Protect the Public from Further Crimes of the Defendant

Even if this Court considers only the JP Wireless robbery (and does not consider the Metro Credit Union robbery to which Mr. Benjamin confessed, or the subway station robbery for which Mr. Benjamin was prosecuted and convicted), the court's sentence must reflect the seriousness of the offense. In determining what sentence most accurately reflects the seriousness of Mr. Benjamin's crime, the court should consider his lengthy criminal record and his failure to learn anything from long periods of incarceration. The government's recommendation of a sentence of not less than 87-months accurately reflects the seriousness of Mr. Benjamin's crime.

The court's sentence must promote respect for the law and the federal criminal justice system. A sentence of less than 87-months would fail to promote respect for the law or the federal criminal justice system. The undersigned suspects that the vast majority of Americans would be offended by a sentence of less than 87-months given the facts of this case and Mr. Benjamin's extensive violent criminal record.

The court's sentence must afford adequate deterrence to Mr. Benjamin and others who might be tempted to commit a similar crime. People must understand that they will pay a high price when they point a gun in another person's direction and rob that person. The undersigned believes that Mr. Benjamin will remain a threat to the safety of others as long as he lives and capable of walking and wielding a firearm. He is already far older than most individuals who commit violent robberies.

Conclusion

Mr. Benjamin richly deserves a sentence of not less than 87-months. He committed a violent and dangerous crime with a firearm. He has a terrible criminal record spanning more than 40 years and will continue to pose a serious risk to the safety of the community upon his release from prison.

Respectfully submitted,

JOSHUA S. LEVY
Acting United States Attorney

By: /s/ David G. Tobin
DAVID G. TOBIN
Assistant U.S. Attorney

CERTIFICATE OF SERVICE

This is to certify that I have this day served a copy of the foregoing upon all counsel of record by electronic filing notice.

/s/ David G. Tobin
DAVID G. TOBIN
Assistant U.S. Attorney