

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. 13-CR-40077-JPG
)	
COLT LYNN,)	
)	
Defendant.)	

DEFENDANT’S MEMORANDUM IN SUPPORT OF VARIANCE

Comes now Defendant, by his attorney, John D. Stobbs II, and for his Motion In Support of Variance, states:

I. Introduction

The reasons of why this Honorable Court should grant a variance from the Advisory Guideline range of 210-262 months are:

1. Defendant Colt Lynn’s relevant conduct is 4.8 grams of pseudoephedrine. But for being a Career Offender, Colt Lynn’s Advisory Guideline range would be 57-71 months; and
2. There would be no criminal case, State or otherwise, but for Colt Lynn calling Sheriff Jerry Suits. For purposes of a variance, the reason Colt Lynn called Sheriff Suits is immaterial.

II. Career Offender

Two of Colt Lynn’s convictions, where sentence was imposed on October 17, 2007 constitute violent felonies and trigger Advisory Guideline Section 4B1.1 making him a Career Offender.

The idea behind the Career Offender section of the Advisory Guidelines was to punish violent felons and to warehouse individuals who continue committing violent felonies.

The undersigned acknowledges that 9 pages of criminal conduct might not bode well for Colt Lynn vis-à-vis arguing that he should not be treated as a Career Offender. These 9 pages certainly show that trouble follows Colt Lynn.

At the same time though, the overwhelming majority of Colt Lynn's convictions are for minor/petty offenses such as "theft under." There are no offenses involving large amounts of drugs or a long pattern of violent felony convictions.

III. Relevant Conduct

There is no doubt that Colt Lynn is a Criminal History Category VI. The problem in Colt Lynn's case is that the relevant conduct for which he is liable is miniscule and the enhancement to his Base Offense Level ends up being the proverbial tail that wags the dog. If Colt Lynn were not a Career Offender, his relevant conduct would be equivalent to 48 kilograms of marihuana which would be an Offense Level 18, instead of 32.

No one who heard any of the evidence during the trial thought Colt Lynn was with Ryan Carey, Sarah Horton and Amy Ficker for anything other than to use methamphetamine. These four individuals went on a four day drug binge, which was stopped only when Colt Lynn called Sheriff Suits.

But, no one who heard any of the evidence during the trial thought any of the methamphetamine that was manufactured was going to be distributed. All of the methamphetamine was for personal use, which is something that should be considered when determining how much of a variance is in order.

A Base Offense Level 32 marijuana equivalency would be 1,000-3,000 kilograms which is 20 times higher than the 48 kilogram marijuana equivalent Colt Lynn is guilty of. Likewise, to be sentenced to 17 ½ years instead of approximately 5 years, or nearly four times what the Advisory Guidelines call for is too harsh.

IV. The "Suits" Call & Cooperation

This Honorable Court has seen firsthand that Colt Lynn is impetuous, cocksure and arrogant. Colt Lynn ultimately is his own worst enemy.

Whatever was inside Colt Lynn's head when he decided to call Sheriff Suits, the fact remains that without Colt Lynn there would not have been any case, State or federal.

To be sentenced to at best 17 ½ years, when Colt Lynn brought the case to law enforcement seems unjust. Had Colt Lynn had the foresight to contact an attorney, and then set up a proffer etc. to receive some sort of immunity, he would have received immunity or at worst would have been in line for a drastic sentence reduction.

This Honorable Court cannot participate in plea negotiations, but now that Colt Lynn has been convicted, it can take into consideration what his cooperation meant to the conviction of the others involved in this conspiracy.

V. 3553 Considerations

The foregoing is not to say that this Honorable Court should ignore 18 U.S.C. Section 3553 and sentence Colt Lynn to 5 years in prison.

The factors set out in 3553 are meant to ensure that the whole person is sentenced, rather than the crime only.

Frankly, the history and characteristics of Colt Lynn mandate a non-Advisory Guideline sentence in excess of 57 months. Actions have repercussions and on two separate occasions dropping “F bombs” in open court to a federal judge who might impose a sentence is the definition of stupidity. Fortunately for Colt Lynn, this Honorable Court is one of the few in the United States where this type of boorish behavior is not as detrimental as other Courts.

This Honorable Court will look at Colt Lynn’s criminal history, adjustment in the Department of Corrections as well as his behavior in the local lock-up facilities. Admittedly, these will not benefit Colt Lynn.

Fortunately though, Section (a)(1) of 3553 mandates that this Honorable Court balance Colt Lynn’s history and characteristics with the nature and circumstances of the offense. The required balancing does not include whether or not a Defendant is a Career Offender. Essentially, the sentencing Court is directed to look at who the Defendant is and the crime that he committed.

The nature of the crime is that 4 people wanted to use methamphetamine over a period of time. The circumstances were that in order to make the methamphetamine, pseudoephedrine pills had to be purchased. Once all of the precursors were purchased,

the methamphetamine was made and used. It was never meant to be distributed to third parties and was not distributed to third parties.

The crime ceased when Colt Lynn contacted Sheriff Jerry Suits. When all of this is taken into account, Colt Lynn's sentence should not commence at 17 ½ years.

Subsection 2 of 3553 (a) deals with punishing a Defendant sufficiently so that he will not harm society again and so that there is adequate deterrence for future lawbreakers.

Often gone unnoticed in (a)(2) is the mandate that the sentence must reflect the seriousness of the offense as well as provide just punishment for the offense. The "offense" is what must be punished, not just the Defendant. Here, a 17 ½ year sentence is not proportionate to a weekend of illegal activities where the participants only harmed themselves. A 17 ½ year sentence for the type of activity Colt Lynn was found "guilty" of committing is excessive for purposes of Section 3553.

This is bolstered by the governing mantra in sentencing post-mandatory Guidelines, namely that the sentence be sufficient but not greater than necessary to accomplish the goals of 3553.

VI. Colt Lynn

In *The Strange Case of Dr. Jekyll & Mr. Hyde*, Robert Louis Stevenson showed the inner turmoil of someone whose outward appearance was that of a good and gentle person, but in reality was consumed with inner violence and decadence. Ultimately, Dr. Jekyll was incapable of controlling Mr. Hyde and the "beast" won out.

Unfortunately, Colt Lynn has only managed to show this Honorable Court his Mr. Hyde side. Because of Colt Lynn's manipulative, belligerent, disruptive and immature attitude, perhaps a 17 ½ year sentence might seem "light."

The undersigned is Colt Lynn's fifth lawyer, which in the real world is not a badge of honor. The undersigned has met with and spoken to Colt Lynn extensively on well over a dozen times. But for one occasion, the undersigned has not had any real problems with Colt Lynn. Colt Lynn is demanding as is his right and for the most part, the undersigned has only seen the Dr. Jekyll side of Colt Lynn. The undersigned has seen

someone who is extremely bright, well spoken and humble. The undersigned has witnessed Colt Lynn cry over the pain this case has caused to his family.

Colt Lynn's problems stem from stubbornness, arrogance and pride. The combination of these bad traits cause Colt Lynn to self-destruct. Once Colt Lynn gets "locked into" something his arrogance in what he views as "right" combines with his stubbornness which in turn prohibits him from admitting that perhaps he is wrong. Colt Lynn's pride then takes over and it becomes practically impossible to make him understand the truth in the axiom that "it is more important to know that you are right instead of everyone else knowing you are right."

Every person reacts to stress differently. Colt Lynn has been convicted by a jury of his peers and therefore is deemed "guilty." The stress leading up to the trial though, where Colt Lynn saw his co-conspirators charged in the State, where he received no benefit for his cooperation at the outset of the case and where he was told that "at best" his sentence would commence at 17 ½ years if convicted at trial, helped in making Colt Lynn behave poorly.

VII. Conclusion

This Honorable Court has the difficult task of determining what sentence is appropriate for Colt Lynn and hopefully after considering all of the factors contained in 18 USC 3553 will determine that a variance is in order.

COLT LYNN

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CERTIFICATE OF SERVICE

I hereby certify that on September 15, 2015, a copy of the attached *Defendant's Motion For Variance* was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system upon the following:

Mr. Thomas Leggans
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