

1 (Begin proceedings via videoconference at 9:58 a.m.)

2 DEPUTY CLERK: 3:19-CR-219, United States of America
3 versus Johnson-Trumbo.

4 THE COURT: Good morning.

5 MS. BEYL: Good morning.

6 MR. BONNER: Good morning, Your Honor. Nute Bonner
7 for the United States.

8 MS. BEYL: Good morning, Your Honor. Chastity Beyl
9 for Mr. Johnson-Trumbo. He is present in custody, and he has
10 consented in writing. We previously filed that with the court
11 to appear by video.

12 THE COURT: Mr. Johnson-Trumbo, can you see me?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Can you hear me well?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: We are proceeding in a sentencing hearing
17 pursuant to the CARES Act by videoconference. The record should
18 reflect that I am in the courtroom, along with the court
19 reporter and other court personnel. Counsel and the defendant
20 are appearing remotely via videoconference. And we're doing
21 this pursuant to provisions of the CARES Act, and as Ms. Beyl
22 has indicated, with the consent of the defendant. And also,
23 Mr. Bonner, with the consent of the United States; is that
24 correct?

25 MR. BONNER: Yes, Your Honor.

1 THE COURT: So --

2 MS. BEYL: Yes.

3 THE COURT: -- Ms. Beyl, have you and Mr. Johnson-
4 Trumbo received and reviewed the presentence investigation
5 report?

6 MS. BEYL: Yes, sir.

7 THE COURT: Mr. Johnson-Trumbo, have you had enough
8 time to go through the PSR with Ms. Beyl?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Now, let's -- before we get -- I believe
11 there is an objection we need to talk about. Before we get to
12 that, let's just go through the calculations that are contained
13 in the report. They begin with paragraph 18 on page 7 of the
14 PSR.

15 Our base offense level here for this 922(g) violation is
16 contained in Guideline 2K2.1, and it's a -- it recommends a base
17 offense level of 20 under guideline subpart (a)(4)(B). There is
18 a four-level increase set out in paragraph 20 because the
19 defendant in this case used the firearm in connection with
20 another felony offense, and that adds four levels pursuant to
21 Guideline 2K2.1(b)(6)(B), resulting in an adjusted offense level
22 of 24. Once all three levels of acceptance of responsibility
23 are credited, it gets us to a total offense level of 21.

24 Mr. Bonner, I presume the Government has no objection to
25 that third level being included.

1 MR. BONNER: No objection, Judge.

2 THE COURT: Have I stated these guidelines correctly
3 as they are set out in the PSR?

4 MR. BONNER: Yes, Your Honor.

5 MS. BEYL: Yes, sir.

6 THE COURT: The PSR contains a criminal history
7 calculation that puts Mr. Johnson-Trumbo into Criminal History
8 Category VI. The resulting guidelines recommend a custody
9 sentence of 77 to 96 months, a supervised release term of one to
10 three years, and a fine range of 15,000 to 150,000.

11 Now, I believe there is an objection, Ms. Beyl, with respect
12 to one aspect of Mr. Johnson-Trumbo's criminal history. Is that
13 correct?

14 MS. BEYL: Yes, Your Honor. Judge, we object to the
15 calculation. And as you correctly noted, he still comes in at a
16 criminal history category of VI, but it does, in my opinion,
17 affect the ultimate calculation of criminal history points that
18 is in paragraphs 53 and 54. Those are for convictions from 2019
19 for failure of owner to maintain required insurance, second
20 offense. I do not see from my review of the PSR, nor from my
21 review of the records contained on Court.net that there was an
22 intervening arrest.

23 It appears from paragraphs 53 and 54 that he received
24 citations for both of those offenses. They were -- he was
25 pulled over and cited for those in a very short period of time.

1 It was about a month and a half and, again, each time he
2 received a citation. According to the PSR, he was sentenced on
3 the same day, which was October the 31st of 2019, and he
4 received a 90-day jail sentence.

5 Pursuant to 4A1.2(a)(2), because there was no intervening
6 arrest, and the sentences were imposed on the same day,
7 Mr. Johnson-Trumbo did object to a calculation of four points
8 rather than two. I think that pursuant to the plain language of
9 this guideline, the fact that there was no intervening arrest,
10 and that he was sentenced on the same day, that he should
11 receive two criminal history points rather than four. That
12 would make his total criminal history points 23 as opposed to
13 25.

14 THE COURT: And going -- even if I sustain your
15 objection, going from a calculation of 25 criminal history
16 points to 23, just so that we're all on the same page, that's
17 not going to change his score; correct?

18 MS. BEYL: Correct, Your Honor. I know it may be a
19 little bit nitpicky, but I just --

20 THE COURT: No, that's okay. I think we need to --

21 MS. BEYL: -- point that out.

22 THE COURT: -- we need to work through all of these
23 issues whenever they present themselves.

24 Mr. Bonner.

25 MR. BONNER: Your Honor, no objection to taking those

1 two points away. As Ms. Beyl said, no intervening arrest. And
2 it sounds as though that would be a continuing offense with the
3 no insurance. He did haven't insurance the first time. Then he
4 still didn't have insurance the second time, and he would still
5 be a criminal history VI. So we don't have any objection if we
6 take those two points away.

7 THE COURT: I agree. I'm going to sustain the
8 objection. I think that the applicable circuit level law here
9 suggests that these citations do not qualify as arrests in terms
10 of the guidelines, and so -- and I would just recommend the case
11 of *U.S. V. Powell*, 798 F.3d 431, on that discrete issue. So
12 I'll sustain the objection and we'll change the resulting
13 criminal history point total from 25 to 23, but that does not
14 change -- as I pointed out, does not change the criminal history
15 category.

16 Any other objections, Ms. Beyl?

17 MS. BEYL: No, Your Honor.

18 THE COURT: Any objections from the United States,
19 Mr. Bonner?

20 MR. BONNER: No, Your Honor.

21 THE COURT: Then I will adopt the PSR as modified with
22 respect to those two paragraphs we just discussed. The report
23 will be filed in the record under seal. Of course, in the event
24 of an appeal, the parties, court, and counsel will have access
25 to it.

1 Are there any motions to be made at this time?

2 MR. BONNER: None from the United States, Your Honor.

3 MS. BEYL: None for the defendant.

4 THE COURT: The parties have a (C) plea for 70 months.
5 The guidelines that we all agree have been correctly calculated
6 recommend a sentence at the low end of 77 months. Should I then
7 take it as implicit in the parties' agreement that we will --
8 that you're asking me to vary down seven months from the
9 recommended guideline sentence?

10 MR. BONNER: Well, yes, I guess, Your Honor, yes, we
11 do have a motion. I think it's probably both of our motion for
12 you to vary downward to seven months.

13 MS. BEYL: I agree.

14 THE COURT: And what would -- aside from the parties'
15 agreement, what do you-all view -- I'm going to ask you to
16 explain this in the context of the 3553(a) factors. What would
17 you-all view as the basis for what I would agree is a request
18 for a modest downward variance?

19 Ms. Beyl, let me start with you this time.

20 MS. BEYL: Thank you, Your Honor. As I'm sure the
21 court has read my sentencing memo, I do want to note one
22 housekeeping matter. In my sentencing memo, I had referenced a
23 video from Shorty's Food Market. We had tried to get a copy of
24 that made and get it over to the court. I know that I have
25 video stills in the sentencing memo, and I make reference to

1 certain markers in the video.

2 Unfortunately, our office has been shut down due to COVID.
3 We were not allowed back in here. I didn't have my IT person
4 present in order to burn the video. I don't know if the court
5 needs me to supplement or if it would suffice with the
6 information that I have in the sentencing memo, but I can advise
7 this court as an officer of the court that I did reference the
8 video that was provided in discovery at the correct markers and
9 that the stills that are contained in my sentencing memo come
10 directly from that Shorty's Food Mart video. So I did want to
11 note that for the court.

12 I don't believe that the United States has an objection to
13 the facts that I've included in here. If they do, I'm sure that
14 I will hear those objections from Mr. Bonner. But at any rate,
15 I believe that, looking at the facts of the offense for the
16 court to consider under 3553(a), that one of the primary issues
17 in this case -- and it came about, quite frankly, in
18 negotiations. And it didn't affect our ability to ultimately
19 settle it, but Mr. Johnson-Trumbo maintained throughout the
20 course of this case that he was acting in self-defense.

21 Candidly, self-defense is not an issue to possessing a
22 handgun when you're a convicted felon, but I think that the
23 court needs to understand the facts involved here, because I
24 think at first blush, if you are to look at these facts and you
25 see that the gun was fired and that there were wanton

1 endangerment charges resulting, you may be hesitant to accept
2 this (C) plea and to vary down seven months.

3 But what Mr. Johnson-Trumbo has stated all along is, again,
4 he acted in self-defense. He had the gun on that day when he
5 and two other friends walked over to Shorty's Food Mart. And as
6 contained in the videos and again in the stills that I provided
7 in the sentencing memo, there was an individual that had pulled
8 his car up directly in front of the front doors to Shorty's Food
9 Mart.

10 After Mr. Johnson-Trumbo went to enter the food mart, you
11 see on the video -- there's two different videos from inside the
12 food mart. They're surveillance videos. One is looking
13 directly out the window. Another is from behind the register
14 looking directly toward the individual that's checking out. But
15 in both those videos you can see outside the window directly
16 into the parking lot. And you see this individual, this unknown
17 individual, again, pull his car up, park in front of the doors.

18 Mr. Johnson-Trumbo is seen entering and the person, this
19 unknown male who is pretty animated and talking, he stops. You
20 can see him turn around and then follow Mr. Johnson-Trumbo and
21 words are exchanged as he walks into the food mart.

22 Mr. Johnson-Trumbo has explained to me as stated in the
23 sentencing memo that he merely said hello to the guy. He said,
24 "What's up?" And he believes that this individual took this as
25 not a greeting but more of an aggressive stance.

1 After Mr. Johnson-Trumbo went into the food mart, the
2 individual continued talking, acting in an aggressive man.
3 Mr. Johnson-Trumbo went back outside for a brief moment. Words
4 were again exchanged and he came back inside.

5 You can see the individual at one point in the surveillance
6 video actually go back into his car, which, again, is parked
7 right in front of the food mart. He reaches in, sits in for a
8 minute, comes back out, and you can see a gun clearly visible on
9 his hip. There's a couple of stills that I provided in the
10 sentencing memo that show that, again, the individual had a gun
11 and it was visible.

12 Mr. Johnson-Trumbo heard the individual say something to the
13 extent that he was going to spank him, and he believed that to
14 be a threat on his life.

15 Now, I want to pause right here and bring up to the court
16 what I think is another factor that warrants a variance, and
17 that is Mr. Johnson-Trumbo's personal history. As is provided
18 in the PSR, Mr. Johnson-Trumbo -- and this was stated by him and
19 verified by his mother -- he grew up in a bad area. He grew up
20 in a rough neighborhood. And a perfect example of that is,
21 unfortunately, he saw his brother die in a drive-by shooting
22 when he was young.

23 And Mr. Johnson-Trumbo himself just two years prior to this
24 incident that we're now before the court was shot himself. He
25 was shot in 2017, and it was a significant enough injury that he

1 had to have surgery, and he had to have a rod placed in his left
2 thigh.

3 So it's under these circumstances and with this history that
4 Mr. Johnson-Trumbo having experienced gun violence against him
5 and having seen his brother die in front of him by a gun that he
6 believed that this individual who had reached into his car and
7 gotten a gun, that he was going to use it and that he was going
8 to fire on Mr. Johnson-Trumbo.

9 I believe that, picking back up there, whenever Mr. Johnson-
10 Trumbo then goes to leave the store, you see this individual.
11 Mr. Johnson-Trumbo turns left. You see this individual actually
12 reach back to that hip where that gun is and handle the gun
13 before he gets in his car and speeds off in the same direction
14 as Mr. Johnson-Trumbo. It is after that that Mr. Johnson-Trumbo
15 fires upon this individual, after he has reached for his gun
16 because, again, he thought it was in self-defense.

17 I will note -- and I didn't include this in my sentencing
18 memo, but when I was thinking about it this morning, this
19 individual is unknown. And the reason that he's unknown is
20 because he never reported this incident to the police. He was
21 allegedly fired at and he never came forward and said, "Hey,
22 somebody shot me."

23 I think that fact, again, with all the surveillance video
24 supports the fact that Mr. Johnson-Trumbo was indeed acting in
25 self-defense. That's not an excuse. That is not a defense to

1 what he is before this court and because of that he agreed to
2 accept the plea in this case and accept responsibility for his
3 actions.

4 But, again, I just want this court to be aware of the facts
5 of this case and, again, to be aware of his history as to, one,
6 why he was carrying a gun and, two, why he used that gun. And,
7 again, I think that falls under the 3553(a) factors, and I think
8 it does actually warrant a variance to go down to the 70 months
9 as anticipated by the (C) plea.

10 One other factor that I'd like for the court to take into
11 consideration is Mr. Johnson-Trumbo's criminal history. You
12 know, we have gone back and forth over whether it's 23 versus 25
13 points. And, candidly, that is high but, you know, when you
14 take a close look at the record, 12 of those points are
15 two-point offenses, which are misdemeanor offenses, and half of
16 those are those no insurance offenses.

17 You know, I can tell the court from my time down in
18 Jefferson District Court, which is where he got these, these
19 sentences, is normally what happens is you have an individual
20 that can't afford to pay the fines and fees that are associated
21 with a no insurance. And so what happens is you end up getting
22 jail time. Sometimes it's conditionally discharged. Sometimes
23 you go to serve it. And, you know, it's something that is
24 unfortunate, but I see it time and time again in these district
25 court cases.

1 So, you know, there is a -- a significant percentage of his
2 points are attributed to misdemeanors and half of those are
3 attributed to no insurance.

4 So, again, I know that his criminal history -- the points
5 are high, but I do think upon close examination there is an
6 explanation for that.

7 I'd also like to point out to the court that prior to
8 picking up this offense, Mr. Johnson-Trumbo had spent roughly 14
9 months in jail. We are looking at a 70-month sentence now. So
10 that is going to be, you know, roughly five times longer than
11 what he served in the past.

12 At this point in time as we sit here today, he's been in
13 custody for this offense. He got arrested on this offense in
14 August of 2019. Three weeks later, he pled guilty to a
15 possession of a handgun by a convicted felon in state court, and
16 he's actually serving on that sentence. So as we sit here
17 today, he has been in for 17 months. And I will get into this
18 in just a minute as far as it relates to our motion for this
19 court to reason this sentence current. But if you choose not to
20 run this sentence concurrent, he's going to have to serve an
21 additional 70 months on top of those 17 months that he's already
22 been in. In fact, he's still got another nine more months on
23 that state court sentence.

24 So this is significant to him. This is the longest amount
25 of time that he's ever been in custody as we sit here as a

1 result of this charge for 17 months. If the court imposes a
2 70-month sentence, that's going to be five times longer than any
3 amount of time that he has been in custody.

4 I would also submit to the court that, you know, in the time
5 that I've represented him, we have talked about his future plans
6 for when he gets out and you can see that again reflected in the
7 PSR. His mother talks about the plans that she has for
8 Mr. Johnson-Trumbo, and I think that they are good plans. She
9 wants to move completely out of the state and take him with her
10 so that he can pursue either a career in real estate or as a
11 barber. He and I have talked about him going and getting his
12 barber's license or an apprenticeship while he is in custody.
13 And, in fact, he's so serious about it, I've actually sent him
14 names of facilities and outlined programs for him where he could
15 go.

16 He also has full custody of his nine-year-old son. I
17 anticipate that his nine-year-old son would also be moving with
18 him out of state. He has five children all together. He has
19 shared custody of his seven-year-old, and he has three daughters
20 who are currently in the custody of their mother, but he has
21 good relationships with the daughters. He sees them on a
22 regular basis, and he does provide support for them when he is
23 out of custody. So he plans to want to get -- once he gets out
24 of custody, to get out of the environment that he's in, to
25 pursue a career, and to support his children.

1 So, again, I think those are all factors that contribute to
2 a variance, and I would ask the court to take those into
3 consideration. I think that a 70-month sentence is sufficient
4 but not greater than necessary for this offense in light of all
5 the facts and in light of his history, both criminal. So based
6 upon those arguments, I would ask the court to accept the seven-
7 month variance and to accept the 70-month (C) plea and sentence
8 Mr. Johnson-Trumbo to the 70 months.

9 THE COURT: Thank you.

10 Mr. Bonner.

11 MR. BONNER: Yes, Judge. Agree with everything
12 Ms. Beyl said, specifically her description of what actually
13 occurred that day. Just quickly going through the 3553(a)
14 factors specifically, all of them weigh in favor of
15 Mr. Johnson-Trumbo receiving a variance from the court. (A)(1)
16 with the nature and circumstances of the offense, as you've
17 already heard, it was a self-defense type situation, which sort
18 of explains his possession of the handgun.

19 The history and characteristics of the defendant, you heard
20 both about his personal life growing up and also explaining the
21 high criminal history score. Both of those explanations weigh
22 in favor of a variance.

23 (A)(2)(a) through (d), a 70-month sentence would reflect the
24 seriousness of the crime. It would provide adequate deterrence.
25 It would protect the public and it would also give Mr. Johnson-

1 Trumbo vocational opportunities within the BOP.

2 So (2) (A) through (D) all weigh in favor of seven-month
3 variance.

4 (A) (3) and (4), a 70-month sentence would still be a
5 significant Zone D sentence, and it would be a less than 10
6 percent variance. So nothing within (A) (3) and (4) would
7 really -- should really discourage the court from granting the
8 variance.

9 (A) (5), there's no policy statements that I believe me and
10 the defense are aware of.

11 (A) (6), a 70-month sentence is not so disparate from other
12 people who have this guideline calculation as to -- which would
13 cause you to overrule our motion.

14 And then, finally, Judge, (A) (7), restitution does not apply
15 in this case. So I agree with Ms. Beyl and join her in asking
16 you to grant the seven-month downward variance.

17 THE COURT: What's the Government's position with
18 respect to the sentence of imprisonment that follows from
19 Mr. Johnson-Trumbo's state court case -- actually, two of them
20 in Jefferson Circuit Court, 19-CR-2394 and 19-M-9426 that
21 Ms. Beyl referenced in her argument?

22 MR. BONNER: We did not contemplate that in our plea
23 agreement. We don't object if you run the sentences
24 concurrently. If it's based upon different conduct, which it
25 would be, it would be a probation violation for a totally

1 different offense. I think the guidelines discourage you from
2 running it concurrent, but the guidelines, as you know, are not
3 controlling on you. You can do what you want to do.

4 THE COURT: What was his sentence in state court? Is
5 there a combined total there, Ms. Beyl?

6 MS. BEYL: He received three years in state court.
7 The 19-M case that you refer to, that's a misdemeanor. So it is
8 going to run concurrent under Kentucky law to the felony as well
9 as to this sentence, because under Kentucky law all misdemeanors
10 run concurrent to felonies. So it would be a three-year total
11 prison sentence.

12 He was -- he had not pled to it or had not been sentenced on
13 it when he picked up this charge that's now before the court.
14 It looks like from my review of the records, he did what's
15 called a rocket docket deal, and that's where he came in and he
16 was -- he pled and he was sentenced all on the same day three
17 weeks after he's arrested for this case, which was in September
18 of 2019. He has about nine months left on that sentence. From
19 what I can tell from looking at the PSR, it looks like he served
20 this one out October of 2021.

21 THE COURT: All right. I might need to confer briefly
22 with the probation officer in a minute.

23 Let's then -- I'll take that issue under advisement for the
24 moment.

25 Does Mr. Johnson-Trumbo wish to address the court?

1 MS. BEYL: Yes, sir, he does.

2 THE COURT: Very well. Mr. Johnson-Trumbo, now is
3 your opportunity to speak.

4 THE DEFENDANT: How you doing, Your Honor? First, I'd
5 like to thank -- tell Ms. Chastity thank you and thank Mr. Nute
6 for accepting the 70 months.

7 Basically, I just want to talk to you about what
8 Ms. Chastity said. Like, I never meant to -- like, I already
9 accepted 70 months so -- I didn't have no victims in the case,
10 but I do want to apologize for what happened that day. But like
11 she said, I never meant to hurt anyone or never attempted to
12 hurt anyone.

13 I grew up in a good family, a loving family. You know, me
14 and my brothers is all so close. But like Ms. Chastity said, I
15 did lose a younger brother when I was 18. He was 16 at the
16 time, and he was killed in a drive-by. I'm not going to blame
17 him for nothing, but a lot of stuff that had happened ever since
18 '08 -- he was killed in '08. A lot of stuff that happened since
19 '08, like, I have -- I do -- I have carried a gun for
20 protection, and that just -- I'm not going to lie to you, but I
21 never -- I have never hurt anyone.

22 And at this point, I'm 32. I just want to move on with my
23 life, and just want to be there for my kids. I got five loving
24 kids. I have a good relationship with their mothers.

25 My oldest son, his mother -- she died in 2018. She OD'd.

1 She died in 2018. So right now, my oldest son, he's under
2 custody -- Nico's under custody with my granny. And she's
3 diagnosed with cancer, so that's why I was really -- that's why
4 I was really took the 70 months.

5 Like, I wanted to go to trial, but at the end of the day, I
6 can't keep being selfish toward my kids, because I'm already --
7 I already put myself in a position where I was already being
8 selfish. I was being selfish while I was out there. So right
9 now I'm just trying to move forward and do what I got to do to
10 take care of my kids.

11 And like I say, I'm just -- you watch -- you see our city
12 right now, it's crazy. Like, there's a lot of stuff that I want
13 to do. I coached little league football when I was out there.
14 Like, I love football. I coach kids. I deal with the youth. I
15 done dealt with youth before.

16 And at this point, like I say, I just want to help people
17 that have been -- that have been through my situation, because I
18 have been through a lot and now I just want to make a change.
19 Like, I just want to be a better person because I know I can be
20 that person, but sometimes it's just hard when you got the wrong
21 friends around you and, you know, you just dealing with a
22 certain area. That's why I do want to move out of Louisville,
23 because right now Louisville is just -- like, I watch the news
24 every day. Louisville is just -- is going crazy. Like, it's
25 getting worse and worse every day.

1 And like I say, I just want to be a better person and do
2 what I got to do for my kids and my family, because a lot of
3 people depend on me. And I just -- I just want to get this over
4 with as quickly as possible.

5 But I do thank everyone. I do thank Ms. Chastity. She has
6 been supportive since day one since I met her. And like I say,
7 I do want to thank Mr. Nute again for accepting 70 months. And
8 like I say, I just appreciate you letting me talk right now.

9 THE COURT: Thank you, Mr. Johnson-Trumbo.

10 THE DEFENDANT: So that's really all I got to say.
11 Thank you.

12 THE COURT: Thank you, Mr. Johnson-Trumbo.

13 Let me take a break and ask the videoconference controller
14 who -- to put me into a room with Officer Duvall so that I can
15 talk with him about this issue of concurrent sentence or
16 consecutive sentence.

17 If you will, counsel, and Mr. Johnson-Trumbo, if you will
18 just wait in place. We'll come back shortly.

19 (Recess at 10:30 a.m. until 10:36 a.m.)

20 THE COURT: All right. We're back on the record. Can
21 everybody hear me?

22 MR. BONNER: Yes, Judge.

23 MS. BEYL: Yes, sir.

24 THE COURT: And, Mr. Johnson-Trumbo, I believe I can
25 see -- oh, yeah, there you are. As you were leaning forward

1 there, I couldn't quite see that you were there. You can hear
2 me again and see me well?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Good.

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Good. Do we have anything else by way of
7 argument or discussion with respect to the 3553(a) factors that
8 we need to take up?

9 MR. BONNER: Nothing from the Government, Your Honor.

10 MS. BEYL: Nothing from the defense.

11 THE COURT: I have -- as you-all know from our
12 discussion, I have studied the PSR. I have considered the
13 factors set out in 18 U.S.C. 3553(a). I have considered
14 carefully the written materials that have been submitted. I
15 have also considered carefully the arguments and discussion that
16 we have had in this hearing. And based on all of that, I will
17 accept the parties' plea agreement and sentence Mr. Johnson-
18 Trumbo consistent with that plea agreement.

19 Is there anything else that we need to take up before I
20 state the sentence?

21 MR. BONNER: Nothing from the Government, Your Honor.

22 MS. BEYL: No, Your Honor.

23 THE COURT: Then I will now state the sentence.

24 It is the judgment of the court that the defendant, Garrett
25 Johnson-Trumbo, is committed to the custody of the Bureau of

1 Prisons for a term of 70 months as to Count 1 in the indictment.

2 This term of imprisonment shall be served as follows:

3 Sixty-four months concurrent and six months consecutive to the
4 sentence of imprisonment the defendant is presently serving as a
5 result of his conviction in Jefferson Circuit Court Case Number
6 19-CR-2394 and 19-M-9426.

7 Upon release from imprisonment, the defendant shall be
8 placed on supervised release for a term of three years as to
9 Count 1. Mr. Johnson-Trumbo shall abide by the standard
10 conditions of supervision adopted by the court, as well as the
11 special conditions that have been detailed in part G of the PSR.
12 These special conditions include participation in a cognitive
13 behavioral treatment program, substance abuse testing, and other
14 factors and issues that will be explained to Mr. Johnson-Trumbo
15 by the U.S. Probation Office.

16 The defendant is required to pay a special penalty
17 assessment fee of \$100 as to the single count of conviction.
18 This financial sanction shall be paid in accordance with a
19 schedule of payments page, which will be contained in the
20 judgment.

21 Restitution is not an issue here, and I am going to waive
22 imposition of a fine, as well as the cost of investigation,
23 incarceration, and supervision due to defendant's inability to
24 pay.

25 Now, as I have said and as we have discussed here, I have

1 carefully considered the history and characteristics of
2 Mr. Johnson-Trumbo. He has a long and somewhat troubling
3 criminal history. He also has been subjected to substantial
4 trauma. Notably, as we've discussed, watching his brother die
5 in a shooting when they were both just teenagers.

6 I have also considered the nature and circumstances of the
7 offense here. This is a felon in possession case, but the facts
8 involve more than mere possession, as we have discussed. And I
9 would refer -- for the record purposes, I would refer to
10 paragraphs 10 through 13 of the PSR.

11 As I outlined at the outset, the advisory guideline sentence
12 recommend a total offense level of 21 against a criminal history
13 category of VI, resulting in a recommended guideline range of 77
14 to 96 months' custody, a fine range of 15,000 to 150,000, and a
15 supervised release range of one to three years.

16 Now, with respect to the other factors in Section 3553(a), I
17 have concluded that a modest downward departure -- or I'm sorry
18 -- a modest downward variance of seven months as agreed to here
19 by the parties and which accommodates their (C) plea is
20 justified, given the defendant's troubling background, but I
21 also conclude that a sentence any lower than 70 months would not
22 be just punishment.

23 This sentence does properly reflect the seriousness of the
24 offense to which the defendant pleaded guilty. The sentence
25 will promote respect for the law that prohibits felons from

1 possessing firearms, and it will deter criminal conduct by the
2 defendant.

3 And, finally, I conclude that this sentence is sufficient
4 but not greater than necessary to comply with those purposes set
5 out in 3553(a)(2). It is consistent with the statutory
6 limitations and it -- as I have already stated, it conforms with
7 the parties' (C) plea agreement.

8 Any objections to this sentence or the special conditions
9 which have not previously been raised, Ms. Beyl?

10 MS. BEYL: No, Your Honor.

11 THE COURT: Mr. Bonner?

12 MR. BONNER: No, Your Honor.

13 THE COURT: Now, let me address Mr. Johnson-Trumbo's
14 appeal rights.

15 I recall, Mr. Bonner, that the parties' plea agreement
16 contains an appeal waiver. Is that correct?

17 MR. BONNER: That's correct, Judge.

18 THE COURT: So, Mr. Johnson-Trumbo, you may recall
19 from the change of plea hearing how we discussed your plea
20 agreement and the fact that it contains an appeal waiver.

21 Now, these waivers are generally considered valid, but if
22 you believe your appeal waiver is invalid for any reason, you
23 may present that theory to the Court of Appeals. You may also
24 appeal on either of the -- or both of the exceptions that are
25 set out in that appeal waiver, one being for ineffective

1 assistance of counsel, the other for prosecutorial misconduct.

2 In order to appeal, you must first file a notice of appeal.
3 If you need the assistance of the clerk's office to do that,
4 they will, upon request, assist you. It must be done within 14
5 days of the entry of judgment.

6 And if you cannot afford the fee that is associated with
7 filing that notice, you may ask that it be waived. You may also
8 ask for counsel to be appointed to represent you free of charge
9 on appeal if you can't afford counsel. Do you understand these
10 appeal rights?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: And, Ms. Beyl, anything further with
13 respect to your client's appeal rights that we need to cover?

14 MS. BEYL: No, Your Honor.

15 THE COURT: Now, any requests for a recommendation to
16 be included in the judgment, the written judgment?

17 MS. BEYL: Yes, Your Honor. I did speak to
18 Mr. Johnson-Trumbo about this. I believe that his mother and
19 brother are currently in or near Marion, Illinois. I know that
20 there is a facility there. I don't have a name of it right off
21 the -- the name of it off the top of my head, and I don't have
22 it here in my notes, but he would request -- that's his first
23 preference to go there. His second preference is to get into
24 the RDAP program, if eligible.

25 THE COURT: So just so I'm clear, he has close family

1 in Marion, Illinois.

2 MS. BEYL: Correct.

3 THE COURT: Very well.

4 Mr. Johnson-Trumbo, I will include a recommendation that the
5 Bureau of Prisons place you as close as possible to your family
6 in Marion, Illinois.

7 Now, I want you to make sure to understand that I do not
8 have the authority to order the Bureau of Prisons to put you in
9 any specific facility or any specific program, but I will make
10 that recommendation first in order of priority and, secondly,
11 that you be considered for the residential drug abuse program as
12 a second request.

13 Anything further? I'm sorry?

14 THE DEFENDANT: I said no, sir. I said I appreciate
15 that. Thank you.

16 THE COURT: Thank you, Mr. Johnson-Trumbo.

17 Anything further, Ms. Beyl?

18 MS. BEYL: No, sir.

19 THE COURT: Mr. Bonner, anything further from the
20 United States?

21 MR. BONNER: No, Your Honor. Thank you.

22 THE COURT: Mr. Johnson-Trumbo, I wish you well going
23 forward. And having heard from Ms. Beyl about your plans and
24 thoughts for the future, I wish you well in that regard. You
25 will have three years of supervised release, and I think you

1 should look at that as an opportunity to interact with the
2 probation officers who will be, yes, overseeing you but also
3 helping you. And I think you should look at that as an
4 opportunity to take advantage of the resources they're able to
5 bring to bear in their supervision of you and their work to
6 integrate you back into society on your way out.

7 So I hope that you will take that as an opportunity and then
8 return to your family and in particular your children's lives
9 better prepared going forward. Good luck. Thank you.

10 (Proceedings concluded at 10:49 a.m.)

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