

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

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
SAMUEL ZURHEIDE,)
)
Defendant.)

DEFENDANT’S SENTENCING MEMORANDUM

I. Introduction

A sentence of one year and one day, with a year of home confinement and 1,000 hours of community service is the sentence that will be requested of this Honorable Court on January 11, 2015. As will be shown below, this is a sentence which will offer just punishment for the offense, while at the same time serving the purposes of 18 U.S.C. Section 3553.

Good people do bad things. Samuel Zurheide is a good person who along with Alex Jones concocted a plan to travel from Colorado to O’Fallon, Illinois to rob a bank.

Consequences are rarely thought of when a bad act is committed. Samuel never thought enough ahead of the robbery to realize what the consequences of this horrifically stupid act would be. He will go to prison. He has “shamed” his family. He has lost his fiancée. He caused unfathomable pain to an innocent victim.

The undersigned is not going to pillory Jones in this Sentencing Memorandum, other than to point out the obvious. Samuel’s reason for robbing the bank was so he could buy an engagement ring for his fiancée. (Exhibit A) Jones used the money he stole to buy other guns. We know that because when Jones was arrested he was in the process of building an arsenal with the proceeds from the bank robbery. It would be a safe bet to say that Jones was not a connoisseur of firearms or was a collector. Jones was going to use this arsenal for future criminal activity.

II. Zurheide Family

Rare is the Sentencing Memorandum where “family honor” is mentioned. Rarer is the mention of “shaming” a family name being treated as “punishment.”

Samuel Zurheide was raised “right.” He showed no signs of youthful rebellion and was a leader in just about everything he did. Had Samuel asked his parents for money to buy an engagement ring they would have gladly given it to him.

Samuel’s parents have lived the “American dream.” To Samuel’s parents, the United States truly is the land of opportunity. They have a love for the United States that only an emigrant can have or appreciate.

Nora and Zuheir emigrated to the United States penniless. They were born and raised in Jordan. Both were born and raised Catholic. They left their homeland which was and continues to be mired in religious strife so that they and their offspring could enjoy a peaceful and prosperous life. As a result of being Christians surrounded by Muslims, Nora and Zuheir were painfully aware of what it meant to be a minority.

Like all emigrants, the Zurheides brought to the United States their culture and unique experiences from that culture. Working hard and honesty are trademarks that they brought with them from their respective cultures. Emigrants arrive in the United States with only their “good name.” Pride in having a “good name” is paramount. Samuel’s crime has caused dishonor to his family name and deflated the family pride that existed prior to February 14, 2014.

The loss of a “good name” seems unimportant to most Americans who are three or four generations removed from their ancestors who first arrived in America. The focus of “modern” Americans is more on the person than the family name. However, to Zuheir and Nora Zurheide, the harm that Samuel’s crime has caused to the family name cannot be quantified. It is a harm that will never go away.

Samuel and his brother Eddie were anything but spoiled. If a problem arose, they did not run to Mommy and Daddy to get bailed out. They were required to work hard in the family business. They were expected to do well in school. They were expected to treat people with respect.

Hard work was pounded into the boys' heads from a young age. Through hard work, the Zurheides have ended up with the largest Middle Eastern food store in Colorado. They enjoy a happy upper-middle class lifestyle.

Samuel had an idyllic childhood. He had a marvelous relationship with his parents and brother. He worked at his family store. He participated in all of the sports that any kid would be expected to participate in and excelled in football and basketball. Samuel was popular in high school and his grades were a tad above average. All of this reflected someone who had a bright future. Great things were expected from Samuel.

911 was devastating for the Zurheide family. Everything changed for them. Even though they emigrated to the United States in part due to their Catholic faith and attended mass weekly, post-911 everyone assumed that the Zurheides were Muslim. Everyone assumed that they were terrorists. Everyone assumed that they were anti-American. For a time, business dried up, but through hard work and determination they survived and once again the business is thriving.

Even though the business was struggling, Nora and Zuheir ensured that their sons were as unaffected as possible by the economic difficulties. Family always came first for the Zurheides.

For a 10 year old kid like Samuel, 911 was a searing event. Due to his parents' Jordanian background Samuel was emotionally targeted by kids who days earlier were his playmates. Samuel was disinvited to birthday parties. Samuel was accused of being a Muslim terrorist. Samuel was taunted and bullied by kids who were too young and naïve to realize that Samuel and his family harbored the same feelings about the Muslim terrorists that they did. Because of this abuse, Samuel became "more American" in order to demonstrate his loyalty as an American.

In high school, Samuel ceased going to the local Catholic Church with his parents and began attending the Grace Apostolic Church in Clawson, Colorado. While his 0.89 grade point average might not reflect much religious acumen, Samuel quickly became a leader at Grace Apostolic. It seemed Samuel had found his "niche" and great expectations remained for him.

III. The Robbery

Schoolchildren are taught to ask who, what, where, why and how when writing about a particular topic. Here, “who,” “what,” “where,” and “how” are readily apparent. “Why” is the enigma.

Samuel had everything. Everything. He had loving parents. He had a “cool” brother. He had a beautiful fiancée who he loved and who loved him. He had stability.

The undersigned has had the honor of meeting Samuel’s family. The term “good people” does not do justice to who they are. Samuel’s Dad talked about relocating the store to a larger site and how Samuel (and his brother) worked 18-20 hours a day to help with the move. On various occasions during office interviews, Nora told Samuel that if he needed money to buy a ring for his fiancée he simply needed to ask for it.

Why then would Samuel jeopardize all of this for something he could have received by just asking his parents or working for it? Alex Jones is the answer. Jones is a parent’s worst nightmare. Jones is Eddie Haskell on steroids. He became Samuel’s Rasputin. Samuel thought he could mentor Jones as he had with other troubled youths. Jones was beyond “fixing” though. Like a Zvengali, Jones got inside of Samuel’s head.

Letters in support refer to Samuel as naïve. Others describe him as gullible. Others imply that the adjective innocent might apply. The undersigned’s mother once commented that the terms “gullible, innocent, or naïve” were fancy ways to say “stupid,” which is what Samuel was regarding Jones. But, that stupidity was based on a true and genuine desire to help Jones as Samuel had done with other friends in the past.

The undersigned is not being overly-dramatic when he says that people owe their lives to the same stupidity that Samuel showed to them that he showed to Jones. Daniel Coltier (Exhibit B) was horribly addicted to heroin and begging on a street corner when he met Samuel. Samuel asked this total stranger who felt he should just die, “how can I help you.”

Eric Kearn (Exhibit C), a childhood friend of Samuel’s had moved to Florida and began “doing cocaine, molly, ecstasy, marijuana, and drinking quite heavily. I felt like I was at a dead end and constantly had anxiety and contemplated suicide. . .” Out of the

blue Samuel called Kearn who recognizes that it “is because of Samuel and his faith that I am the man that I am today. He helped me get off of every single one of those drugs. I've been clean now for over a year, Thank God I also haven't touched a drink in that long as well. Without Samuel in, my life this would have never been possibly I feel. He was my lifeline in a time of need. I know he was for many others as well.”

Zachary Smore (Exhibit D) saw firsthand how Samuel reacted to someone in need of help by telling this Honorable Court:

“A few months ago, I was having a hard time at home and could not handle all of the changes and new challenges that were coming into my life. I got into my car, started driving, and cried about all that was going on. I would not answer my phone for anyone. but I chose to call Samuel. When I got on the phone with him, he calmed me down and reassured me that everything would be all right. He said that he would be there to help me no matter what. I knew that he was telling the truth because he had always been there for me before without asking any questions. . . I would have been alone many times if Samuel had not been there for me. He has made a tremendous impact on me and I thank God for bringing him into my life.”

Treyvon Dwyersons who had known Samuel for several years was having a tough day (Exhibit E)

“at school my senior year of high school and I texted him telling him that it was a bad day. Just minutes later, he called me and told me to go have lunch with him . . . as he was already at the front of my school waiting for me. He took me out to lunch and spent nearly half of his day just to listen to me talk about the most menial things, and *yet* he listened with such concern and interest.”

Samuel stupidly thought that like some of the people who have written to this Honorable Court about how Samuel helped them, that he could help “fix” Jones. Somewhere along the way, after Jones moved into the Zurheide home, Samuel began living a Jekyll/Hyde life. The allure of fast and easy money offered by Jones allured Samuel. After Samuel and Jones stole cell phones from the Verizon store Samuel worked at, Samuel became “hooked.” Why work 18-20 hours a day when you can just “take” something, and convince yourself that since no one is getting harmed it is o.k.?

Like most things in life this one “easy score” at Verizon led Samuel and Jones to seek other ways to make easy money. They ultimately targeted the bank in O’Fallon where Samuel’s girlfriend worked.

Jones’s influence over Samuel does not minimize one bit what Samuel did though because from a Guideline point of view, Samuel is ultimately 100% responsible for his actions and those of Jones. In part because Samuel passed a polygraph examination regarding the fact that he was not aware Jones would bring an airsoft pistol with him, (Exhibit F) the undersigned is convinced Jones should be held solely responsible for possessing this weapon for sentencing purposes. Ultimately though, whether or not Samuel knew Jones was going to bring the airsoft pistol does not matter because at the end of the day by sleeping with this mangy beast Samuel has to deal with the fleas. By getting involved with Jones, Samuel is going to be incarcerated for being involved in this crime.

IV. Victim

Samuel is going to point at Jones for being the mastermind of the bank robbery and Jones will do the same. Trying to figure out who was in charge of planning the bank robbery is insignificant because this would ignore the fact that there is a real victim who fortunately was physically unharmed. While not physically harmed, the psychological scars of this poor woman will probably never fully heal.

The undersigned is ***not*** going to play games with words or try to pretend that because the airsoft gun was not a *real* gun that leniency is in order. This poor lady thought it was a real gun when Jones placed it against her temple, and that is all that matters.

The undersigned recalls the testimony of the tellers in the *U.S.A. v. Fuller* trial. Hopefully, this Honorable Court will as well. Bank tellers barely make minimum wage. They tend to be cheerful, happy go lucky people. They are bank tellers because they love working with the public. In *Fuller*, the undersigned saw firsthand the mental and emotional trauma that ***all*** tellers working at a bank go through when an armed robbery occurs.

Bank tellers are taught to give the money to thieves. But, sick reprobates like Fuller or Jones are not satisfied to have something given to them. Part of a sociopath's sickness is the need to "rub it in" and make the victim suffer.

Imagine the fear this poor teller must have had when Jones pointed a gun at her head and demanded that she give him the box full of cash? Imagine the thoughts racing through her head as she tried to stop her hands from trembling as she tried to reopen the box as Jones demanded? Imagine what was racing through her mind as she finally opened the box and Jones threw her on the ground? At each and every stage, the bank teller thought Jones was going to kill her.

Samuel being "sorry" for his part in this crime is not enough. Of course he is sorry --- he got caught. Samuel caused palpable damage to a woman whose only goal in life was to be happy and make others around her happy. By being involved in this bank robbery, Samuel forever changed an innocent person's life.

It would be easy for the undersigned to focus on Jones and the airsoft gun. Blaming this poor woman's psychological condition solely on the presence of an airsoft gun is an injustice. Had Jones simply demanded the box of money --- which was the plan --- this woman's nightmares might occur less frequently, but they would still occur. Samuel has to be punished for his participation in the crime, which includes the harm done to the victim.

The victim impact statements are spot on in a number of ways, and incorrect in others. Samuel is a good person. He did not pretend to be a good Christian. Samuel is a good Christian. By participating in this crime, Samuel acted contrary to how he was raised and contrary to the Christian principles he espoused.

For the victim, it is too late to answer "why" Samuel became part of this crime. She could care less. For her, justice is measured by the punishment Samuel receives. Punishment to the victim is the number of years this Honorable Court imposes.

There is nothing this Honorable Court can do to give "justice" to the victim. The clock cannot be reset to February 13, 2014 where through hindsight Samuel would have stayed put in Colorado.

V. 3553 Factors

The preceding 3 ½ pages all involve the rationale of those who crafted the Guidelines. Sentencing courts were mandated to sentence the crime and were prohibited from taking into consideration anything involving the person committing the crime.

Fortunately for Samuel, 18 U.S.C. §3553 mandates that the entire life he has lead, not just the few hours that encompassed this crime, be taken into consideration when imposing a sentence.

Rather than plodding Germanically through each subsection of 3553, the undersigned will deal with the preamble to 3553(a) last. The preamble mandates that the court “shall impose a sentence sufficient, *but not greater than necessary*, to comply with the purposes set forth in paragraph (2) of this subsection.” (Emphasis added)

As was stated at the beginning of this Sentencing Memorandum, a sentence of one year and one day, with a year of home confinement and 1,000 hours of community service is the sentence that will be requested of this Honorable Court on July 11, 2014. This request certainly brought a chuckle from this Honorable Court because of how “light” it seems. Hopefully, after a thorough analysis of the factors set out in Section 3553, this sentence will appear more reasonable.

A. Types of Sentences Available

3553 (a)(3) and (a)(4)(A) directs the Sentencing Court to consider the kinds of sentences available as well as the sentencing range established for “the applicable category of offense committed by the applicable category of defendant as set forth in the guidelines.”

Booker and its progeny made the Guidelines advisory. Contrary to popular belief, the Guidelines were not abolished. The Guidelines are a good starting point when considering what sentence to impose.

This case though, shows a weakness in the Guidelines. In days gone by, both Jones and Samuel would receive at best 46 months. They would be “warehoused,” and any gifts which could be offered to society would be wasted. In today’s world, this

Honorable Court can differentiate between Jones and Samuel by the sentence and/or type of sentence it imposes.

A plethora of sentences are available to this Honorable Court. Incarceration is not the only way that Samuel can be punished. Through community service, this Honorable Court can have Samuel use his God given skills and talents to help others not make the same mistakes he made.

Home confinement would probably be viewed by some as Samuel “getting off easy.” Not trying to make light of a serious situation, but home confinement with Nora Zurheide will not be a walk in the park for Samuel. Samuel has humiliated his family. Nora is horrified at what happened in O’Fallon and she reminds Samuel at every opportunity how horrible this crime is. Nora and Zuheir will ensure that Samuel returns to the right path that they paved for him and to ensure that restitution is promptly made.

The undersigned cannot stress enough that post-*Booker* the only sentence available is *not* to be warehoused in the Bureau of Prisons for a certain period of time. Hopefully, some sort of amalgamated sentence can be crafted so that Samuel is punished and society is benefited.

Samuel is a young man who “lost his way” in life but when taking the whole of the person into consideration deserves some sort of a sentence other than straight incarceration.

B. 3553 (a)(1)

3553 (a)(1) lumps the nature and circumstances of the offense and the history and characteristics of the defendant into one. In this case it is necessary to divide them into separate sections.

C. The Nature And Circumstances Of The Offense

The bank robbery was supposed to be “grab and run.” Jones was to take the cash box as it was being removed from the ATM machine and run back to the car where Samuel was waiting. They would then drive back to Colorado.

For Samuel, the focus regarding the “nature and circumstances of the offense” should be on the planning of the robbery. Jones decided to “thug it up” by taking an

airsoft pistol and striking unnecessary fear into the bank teller. However it is spun, at the end of the day, Samuel used his fiancée to gather information to be used in the bank robbery. The robbery greatly affected his fiancée who from a window witnessed Jones pull a gun on the teller and throw the teller on the ground. Samuel's despicable actions vis-à-vis his girlfriend is something Samuel will have to live with for the rest of his life. Samuel's actions have caused him to forever lose his fiancée.

Samuel had nearly 9 hours on the drive from his home in Troy, Colorado to the bank where his fiancée worked in O'Fallon, Illinois to change his mind. Samuel was pulled over in Bond County for speeding just prior to arriving in O'Fallon. As a Christian, Samuel could have taken this as a warning from above to turn around and go home.

Just from the standpoint of the harm Samuel caused to a loved one, there is absolutely, positively no way whatsoever that he can somehow diminish the nature and circumstances of the offense.

D. The History And Characteristics Of Samuel

But, when crafting 3553 (a)(1) Congress directed the sentencing court to consider the history and characteristics of the defendant along with the nature and circumstances of the offense.

If a Defendant is nothing more than a thug like Jones, the Sentencing Court should bring the hammer down. If the Defendant has had nary a brush with the law like Samuel and but for the crime for which he is being punished has led an exemplary life, a break should be in order.

There has been a literal outpouring of support for Samuel Zurheide from virtually all walks of his life. This crime is completely out of character for Samuel who in his young life has done marvelous deeds.

Samuel returned to his high school and spoke to three people who had an impact on his life. He confided to them about the crime he committed and asked them to write a letter to this Honorable Court telling it what they know about Samuel. Common sense dictates that these three educators, David McJillan, Stady Voight and Andrew Heer

would **NOT** have written letters in support of a former student unless they truly believed in the goodness of that former student.

Samuel's high school guidance counselor David McM\Jillan knows Samuel well. He tells this Honorable Court (Exhibit G):

Your Honor I am very grateful to write a letter on his behalf. This kind of action is utterly out of Samuel's character. When I met him in 2009 I remember a vibrant young man whom I've heard many good things as he was coming out of Landon Middle School. We met at the beginning of the year to go over what to expect, as well as classes as he entered into High School. I remember the meeting very well. Samuel seemed excited and determined to make an impact in the new school.

To my pleasure he did make a wonderful impact. Freshman year he tried out for various sports such as football, basketball, and track. He made each team as well as started. He also was on top of his schoolwork. He was nominated to be a leader over our Block Program and as a young man he became a mentor and buddy to many academically challenged students.

There was a point in Samuel's life that as his councilor I was concerned. His grades were declining; he was not putting as much effort as he was previously. I was also concerned that he was starting to feel the peer pressures of High School. I met with Samuel toward the middle/end of his sophomore year. I expressed my concern for him. Samuel confided many things in me. As I sat there and listened to him pour out his heart about a break up, the fact that he was being bullied because of his heritage and the pressures he was feeling, He asked me "How could I be more American?"

In the beginning of his Junior year we met again, he was persistent on helping people but he was still having a rough time as the bullying became worse. After our meeting Junior year we talked about how we can improve the situation. All of a sudden it was as if a light bulb hit him. He buckled down and his grades began to improve. He started attending a local church and would constantly carry his bible around school. He began to find his rhythm. In the beginning he was isolated by many for his outward faith. He made many positive contributions to many students in the school for his stalwart positive attitude. It showed many students that you don't have to always succumb to what everyone else likes. This was the direction that he finally felt was the right way to go. He did tremendous his senior year. Towards our exit senior session we met and discussed his future. He was accepted to Wayne State. His senior year grades were all A's and B's he made our honors program. It was tremendous. He used a lot of his

adversities in his life and helped teach the upcoming freshman during our "what to expect sessions" as well as he was a peer mediator for all the students in the high school.

This leads to me to the task at hand. As we began to talk in my office once again, I felt as if Samuel just briefly lost his direction, he was concerned about being liked and tried to help some people that may have needed professional help all of which takes an emotional and physical toll on people. This crime however is completely out of Samuel's character. Samuel was always helpful and always wanted everyone to be happy. He often times helped many teachers and students with many simple tasks such as carrying boxes to the class room, helping janitors clean up after many messy lunch hours. He also helped organizing student activities and clubs. Samuel in all of his adversity never did things to hurt other people, he often times used it to better other students. I believe that an idea or even crime of this nature is not even in his physce.”

The “H.A.W.K. Program” mentioned by Mr. McJillan is a program at Arcg High School meant to enhance the high school experience by encouraging extracurricular activity and individualizing plans for student success. It says a lot about Samuel that he was nominated to be a leader over the H.A.W.K. program by the faculty and other students.

Because Samuel did well academically, he was nominated to be a mentor and buddy to academically challenged students. In high school, Samuel was able to find the strength through his convictions to overcome the bullying he received as a result of his heritage. Mr. McJillan mentions how Samuel used his adversities to help teach incoming freshman during Troy’s "what to expect sessions." A peer mediator, mentioned by Mr. McJillan is a leadership type position given to a student who is able to get along with everyone and a student respected by both faculty and other students.

Samuel’s now retired high school English teacher Stady Voight (Exhibit H) “jumped at the opportunity to write” on Samuel’s behalf. Mrs. Vought wanted to give this Honorable Court “insight and how tremendously out of character this is for Samuel Zurheide.” The fact that out of the thousands of students Mrs. Voight educated, Samuel “is one that sticks out” speaks volumes about what a good person Samuel is.

Mrs. Voight goes on to tell this Honorable Court:

“Samuel was a very good student. A good student is not defined by his or her grades but their willingness to learn, their enthusiasm and the ability to utilize what they have learned. Samuel was an extremely good student. He always followed rules, showed respect for others, had a strong desire to learn and make positive changes and impacts the world, he constantly went out of his way to help other students, he always showed genuine interest in others. I would purposely seat Samuel next to students who would have a difficult time paying attention or grasping the material. Samuel always built a genuine friendship with the other students and truly aided anyone his desk was around.

Because of Samuel’s good character he was nominated by other educators as well as students to be the lead mentor over our hawk program his freshman year. Samuel’s impact on other students goes far beyond the words on this page. Throughout his 4 years in high school Samuel helped many students get off of drugs. He helped others not commit suicide by truly making them feel special. He helped in any way he could even whether it be tutoring, helping a janitor, or investing time in the peers around him.

Every year I had 5 students mostly seniors talk to the incoming freshman and give them the pep talk and what to expect in high school. They spoke from academics, student life, clubs and more. I always made sure to have Samuel speak about adversities and things that will arise in their life as they are attending school. His speech always made immediate and direct impacts in many who listened.

If I could think of any quote to describe Samuel it would be from Mahatmas Gandhi “Be the change in the world that you want to see.” Samuel lived that every day.

Your Honor I know we all make mistakes some bigger than others and more often than not we have to make amends for our mistakes. Samuel is a very caring and genuine man. His impact on our society and community is breath taking in a positive way. This is way out of his character and I believe that if you give him a second chance he will be able to shine and use this adversity to better many others. Thank you for your time Your Honor.”

Finally, Samuel’s high school basketball coach Andrew Heer (Exhibit I) discusses the positive impact Samuel had on the basketball team. Mr. Heer mentions the epidemic

of steroids in high school athletics and how Samuel helped “athletes get off of steroids.”

Mr. Reed mentions that:

“Samuel was the strong leader that chose not to ignore it but to address it. He called a team meeting and opened the floor about the things that were tearing our team apart he also spoke about the value of a teammate. Word spread quickly and many confided in him. As a coach I’ve never seen quite an impact as I did those few seasons out of any athletes that I’ve coached. He worked as hard on the courts as he did off the courts. I am very grateful to know him and have coached him.

I hope for your leniency in his sentencing. When he asked me to write this letter I saw the look in his eyes as I did many times on the practice court. One that realizes he made a huge mistake but is making steps to work on himself.”

It is easy to focus solely on what Samuel did prior to and during this crime. He cannot change that. Snide comments like “he sure didn’t act like a Christian on February 14, 2014” are sure to be made. The Zurheides understand Christianity and Faith better than most. In their native country, Nora and Zuheir were minorities. Their identities were defined by their Catholic (Christian) Faith. While they were not persecuted in the strict sense of the word, they faced barriers that their Muslim countrymen did not. They were able to bless their children with a true and strong Faith that only someone experiencing true religious freedom for the first time are able to do.

The fact in this case is that this 22 year old man was and is someone who through his Faith has made a difference in the lives of others. Notwithstanding this glitch, Samuel will continue to seek out and help others.

Because this case is so out of the ordinary for who Samuel Zurheide is, and because his actions cannot be shoe-horned into a rational explanation, the undersigned is certain some might call him a “con man” or a “fraud.” That unfairly minimizes the people who have taken the time to write this Honorable Court to describe the Samuel Zurheide that they know. Through their letters, these people desperately want to return the kindness, generosity and camaraderie that Samuel showed them.

Samuel was *not* a con man or fraud when he went to Jamaica to help those less fortunate than him. (Exhibit J) Samuel was *not* a con man or fraud when he helped Dalton Coltier get off of heroin (Exhibit B) Samuel was *not* a con man or fraud when he helped fellow students get off of steroids. Samuel was *not* a con man or fraud when he helped fellow students not commit suicide (Exhibit H). Samuel was *not* a con man or fraud when he tutored his fellow students. Samuel was *not* a con man or fraud when he helped janitors. (Exhibit G)

Samuel committed a horrible crime. He made a catastrophic mistake. But, he is a good person and for purposes of a variance, Samuel's history and characteristics outweigh the nature and circumstances of the crime.

E. Proffers/Sentencing Disparities

Once arrested Samuel immediately tried to do the right thing. On the day he was arraigned, Samuel cooperated with the Government through a proffer. As part of his cooperation agreement with the Government, in exchange for him providing the airsoft pistol and clothing that Jones used in the robbery, Samuel had and has the hope that the Government will file a Rule 35 on his behalf.

In the event there is any disagreement, confusion or concern over Samuel's proffer and the airsoft pistol turned over to law enforcement, the undersigned wants to ensure that this Honorable Court understands the timeline regarding the airsoft gun.

After the robbery, the plan was for Samuel and Jones to return to Colorado. Along the way, Samuel asked to be dropped off in Indianapolis where he took a bus so that he could be with his fiancée in O'Fallon. Jones returned to the Zurheide house alone in the vehicle used to commit the robbery. Soon after arriving at the Zurheide house, Jones packed his belongings and left. The vehicle used in the robbery remained. Found inside the vehicle by Samuel's brother (and prior to the arrest of Jones) was the airsoft pistol used in the robbery. When Jones was arrested he had an airsoft pistol in his backpack. Therefore, there are 2 airsoft guns --- one from the vehicle and one in Jones's backpack. It is likely that Jones purchased 2 airsoft pistols and used one in the robbery. The gun inside the vehicle was found alongside the clothes he wore to the robbery as well as the

bandana Jones used when he attacked the bank teller. Common sense dictates the airsoft gun found in the vehicle is the one used in the robbery.

Attached and marked Exhibit K is a sworn statement from Attorney Michael Sanji, a Detroit attorney who served in the U.S. Marine Corps. Mr. Sanji is a friend of the Zurheide family and referred Samuel to the undersigned. At all times pertinent to the discovery of the airsoft pistol by Samuel's brother, Samuel was incarcerated at the St. Clair County Jail. It therefore would have been *impossible* for Samuel to have purchased a duplicate airsoft gun after his arrest in order to trick law enforcement into believing it was *the* airsoft pistol used in the bank robbery in order to get a time cut.

Samuel truthfully disclosed to law enforcement his involvement in this crime, including the *fact* that he did not know Jones would bring a weapon. The polygraph examination (Exhibit F) was conducted on June 11, 2014 by Christopher Grandeur. Included in Exhibit F is Mr. Grandeur's curriculum vitae which clearly shows that he is not someone who will say whatever the party paying him wants him to say. Mr. Grandeur is the "best of the best" when it comes to polygraph examinations.

Included in the over 3,700 polygraph examinations Mr. Grandeur has conducted are those for various Sheriff's Departments, the United States Attorney's Office, the Federal Bureau of Investigation, the Drug Enforcement Administration, Bureau of Alcohol Tobacco and Firearms, United States Secret Service and the United States Marine Corps. Obviously, a former Detroit police lieutenant who heavily used by state and federal law enforcement agencies is someone who can be relied on.

The following test questions were presented to and *answered truthfully in the negative* by Samuel:

1. Did you ever discuss with Jones that he would use any gun in this crime?
2. When Jones got out of the car did you know he had any gun with him?"

While it is meaningless to the victim that unbeknownst to Samuel, Jones brought an airsoft pistol, it is relevant for purposes of a 3553 variance because it deals with sentencing disparities.

The only “evidence” that could be presented contrary to the lie detector results and Samuel’s fervent claim that he did not know an airsoft gun would be brought comes from the lips of Jones. Of course Jones is going to say that Samuel knew a gun was going to be brought to the bank robbery. That’s part and parcel of how a psychopath like Jones would act. The undersigned would be shocked if Jones told the truth and admitted the gun was his idea and that Samuel was unaware what Jones was going to do. Samuel voluntarily took a lie detector test and passed with flying colors. That certainly outweighs any claim Jones might make to the contrary.

This is the only federal crime Samuel has ever been involved in. Jones, on the other hand, failed to mention in his proffer anything about the federal crime of identity theft he committed on Eric Kearn. (Exhibit C)

Eric Kearn knows both Samuel and Jones well. He tells this Honorable Court:

“This was an example of an unmovable object meeting an unstoppable force. Samuel was going places in his life. He was and still is in school, he always worked hard, always helped people and dedicated his life to it. He met the unmovable object, which is Alexander Jones. Alex had no goals in life and was going through a hard time. He had ran away from home and asked to stay with Samuel. Samuel at the time didn't know he ran away and thought he just needed a place to stay. Alex Jones used him immensely. I know Alex Jones personally due to the fact that he stole my identity. He got a hold of my social security number from a W2 form and Alex put me \$3500 dollars in debt and never was remorseful about anything. I undoubtedly believe he was maliciously put into his situation due to Alex. I also know it takes two to tango but thoughts like this never enter Samuel's head. Samuel doesn't think like that. Samuel thought he could help but it ended up being his demise.”

One has to wonder how many other federal crimes Jones committed but failed to mention to law enforcement during his proffer. It is “Alice in Wonderlandish” for Jones to believe that he might receive, or anyone in authority to consider, a Rule 35 being filed for Jones.

While Samuel is culpable for everything Jones did, 3553(a)(6) allows this Honorable Court to take into consideration the actions of each party involved in the crime. Samuel did not know Jones was going to take an airsoft pistol. Samuel was

involved in most aspects of the crime but for what physically transpired between Jones and the teller.

Jones took the airsoft pistol to the bank without telling Samuel. Jones's intention was to somehow use the airsoft pistol. Jones pressed the gun to the temple of the teller. Jones threatened the teller. After being given the money, Jones threw the teller to the ground.

More importantly, after the robbery, Jones went on a shopping spree and began amassing an arsenal. Jones purchased thousands of dollars of firearms and the conclusion has to be that he intended to use those firearms for future crimes.

Based simply on the preceding three paragraphs, Samuel's sentence should be significantly less than Jones's.

F. 3553 (a)(2)(A)(B) & (C)

3553 (a)(2)(A)(B) & (C) mandates

(2) the need for the sentence imposed—

(A) to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense;

(B) to afford adequate deterrence to criminal conduct;

(C) to protect the public from further crimes of the defendant; and

The letters in support of Samuel as well as the exemplary life he led prior to the bank robbery should dispel any concern about the public needing protection from further crimes of Samuel.

Very little can be done to deter to criminal conduct when greed is the sole reason for the crime. Future bank robbers probably will not decide against robbing a bank based on whatever sentence is handed out to Samuel.

Therefore, weighing the seriousness of the offense with just punishment is what is left for this Honorable Court to determine regarding 3553 (a)(2). This Honorable Court needs to determine whether a sentence of one year and one day, plus one year of home confinement plus 1,000 hours of community service is “just punishment” which adequately reflect the seriousness of the offense.

The victim and probably the Government will certainly say that this sentence is too light. That this sentence means Samuel is “getting off easy.” That Samuel is not being adequately punished for his crime, because in their eyes the only “punishment” is that which involves incarceration. This belief would be correct under the “old” view where the Guidelines mandated incarceration. In the post-*Booker* world though 3553 allows a sentencing court to look at the “whole Defendant” not just the crime that was committed when fashioning an appropriate sentence.

A sentence of one year and one day will sufficiently punish Samuel in terms of removing him from society.

A sentence of one year of home confinement will further punish Samuel by limiting his movement.

Most importantly from a rehabilitation standpoint, 1,000 hour of community service will allow Samuel to help other people who like him, might meekly follow a bad person and commit a crime.

The letters in support of Samuel show someone who not only is capable of helping others, but someone who has done so in the past. This amounts to 20 hours a week of community service for a year.

Obviously, if this Honorable Court feels more incarceration and less home confinement or community service is in order, the figures can be adjusted accordingly. In the undersigned’s opinion, it is unnecessary for there to be “straight incarceration” for Samuel.

VI. Conclusion

The preamble of 3553 is the perfect place to conclude. It directs this Honorable Court to impose a sentence which is sufficient but not greater than necessary to comply with Section (a)(2).

The preamble relies on the sentencing court to use the scales of justice to weigh what is the perfect sentence for the crime which was committed by weighing on one scale the crime and on the other scale who the Defendant is.

Here, a straight Guideline sentence of four or five years of incarceration, in the undersigned's opinion, is greater than necessary when considering who Samuel is and what he has done in his life.

A sentence of one year and one day, one year of home confinement and 1,000 hours of community service is a sufficient sentence and one which the undersigned hopes this Honorable Court will impose on July 11, 2014.

SAMUEL Z. ZURHEIDE

STOBBS LAW OFFICES

BY:

/s/John D. Stobbs II
John D. Stobbs II, No. 06206358
Attorney for Defendant
307 Henry St. Suite 211
Alton, Illinois 62002
Telephone: (618)462-8484
FAX: (618)462-8585
Email: jds2@stobbslaw.com

CERTIFICATE OF SERVICE

I hereby certify that on December 1, 2014, a copy of the attached *Defendant's Sentencing Memorandum* 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. Steve Weinhoef
Assistant U.S. Attorney
Nine Executive Drive
Fairview Heights, Illinois 62208

STOBBS LAW OFFICES

/s/ John D. Stobbs II
307 Henry St. Suite 211
Alton, Illinois 62002