

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA,

v.

JOSEPH TOLBERT, III,

Defendant.

Criminal Action No. 11-129-09 (CKK)

**MEMORANDUM OPINION AND ORDER**

(January 22, 2020)

Pending before this Court is *pro se* Defendant Joseph Tolbert's [1030] Motion to Reduce Length of Disability ("Def.'s Motion"), filed pursuant to Section 504 of the Labor-Management Reporting and Disclosure Act of 1959 ("LMRDA"), 29 U.S.C. § 504, and the United States' [1049] Response to Defendant's Motion ("Govt's Resp."). The United States ("Government") does not oppose Defendant's request for reduction "[i]n light of the unique facts presented here, the investigation conducted by the Department of Labor, and the entire record herein[.]" *See* Govt's Resp., ECF No. 1049, at 1. The Government's Response sets forth the applicable legal standard and the facts relevant to Mr. Tolbert which demonstrate that the standard has been met, and as such, this Court adopts the Government's Response. On December 31, 2019, this Court issued a Memorandum Opinion and Order analyzing the factors that courts consider when addressing a request for a reduction in disability pursuant to 29 U.S.C. § 504(a), and that Memorandum Opinion and Order are incorporated by reference herein. The Court set a hearing on Mr. Tolbert's Motion, which was held on January 22, 2020. Defendant Joseph Tolbert appeared *pro se* at the hearing, and the Government appeared through counsel.

Defendant's Motion to Reduce Length of Disability, ECF No. 1030, indicates that he is

currently employed by the Washington Hilton, and he serves as a shop steward for his union, UNITE HERE Local 25, but he wishes “to become an organizer for Local 25.” Def.’s Motion, ECF No. 1030, at 1. Mr. Tolbert seeks relief from the employment disability imposed by Section 504, which prohibits him from serving as a union employee or representative for thirteen years after the date of his conviction or release from prison, whichever is later. The Court notes that Mr. Tolbert’s term of supervised release — which commenced on October 29, 2015 — was terminated early by this Court upon an unopposed motion by Defendant. *See* June 13, 2019 Mem. Op. and Order, ECF No. 1026.

A defendant seeking a reduction in the length of an employment disability must demonstrate that granting relief would “not be contrary to the purposes” of the LMRDA, and he must make a “clear demonstration” that he has been rehabilitated. *See* 29 U.S.C. § 504(a), U.S.S. G. §5J1.1. In considering requests for reduction, courts generally analyze the following three factors (which were the focus of a Department of Labor investigation in this case): “(i) the character and gravity of the offense and its nexus to union activities; (ii) the nature of the position sought; and (iii) the extent that the defendant is rehabilitated so as to adhere to the highest standards of responsibility and ethical conduct under the LMRDA.” *See* Govt’s Resp., ECF No. 1049, at 7, citing *Carollo*, 84 F. Supp. 2d at 378 n.3; *Cullison*, 422 F. Supp. 2d at 70-73. Because these three factors were discussed in detail by the Government in its Response and subsequently analyzed by the Court in its Memorandum Opinion and Order, that analysis need not be reiterated herein.

At the January 22, 2020 hearing, Mr. Tolbert addressed the Court with regard to what his role as a Union organizer would entail, and he demonstrated that he has been rehabilitated insofar as he acknowledged responsibility for his prior misconduct [a drug offense] and expressed the desire to keep moving forward with his life in a productive and positive manner. Mr. Tolbert is

gainfully employed, and he is actively engaged in both union and community activities. The Government reiterated that the Department of Labor performed a thorough investigation and that Defendant's request for a reduction is warranted. Accordingly, it is this 22<sup>nd</sup> day of January, 2020,

ORDERED that Mr. Tolbert's [1030] Motion to Reduce Length of Disability is GRANTED.

\_\_\_\_\_/s/\_\_\_\_\_  
COLLEEN KOLLAR-KOTELLY  
UNITED STATES DISTRICT JUDGE