

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

_____)	
UNITED STATES OF AMERICA)	
)	
v.)	
)	Criminal No. 18-0372 (PLF)
TYRONE GRANDBERRY,)	
)	
Defendant.)	
_____)	

MEMORANDUM OPINION AND ORDER

On June 29, 2021, the parties in this case appeared before the Court for a sentencing hearing. That hearing is scheduled to resume on July 19, 2021 at 10:00 a.m. in Courtroom 29 in the courthouse Annex. In anticipation of that hearing, the Court hereby directs the parties to clarify the following issues through submission of supplemental memoranda.

As the Court noted at the June 29, 2021 hearing, the first step in determining Mr. Grandberry's sentence is to calculate his offense level under the Sentencing Guidelines. The Court understands the position of the United States to be that the total offense level is 24, and the position of Mr. Grandberry to be that the total offense level is 20. The Court further understands that part of the discrepancy between these positions relates to the application of the sophisticated means enhancement pursuant to U.S.S.C. § 2B1.1(b)(10)(C). The Court does not understand how Mr. Grandberry calculated the offense level with respect to the remainder of the discrepancy. Mr. Grandberry is therefore directed to set forth in his supplemental memorandum his offense level calculation and the reasons for that calculation.

With respect to the loss calculation, the Court understands the position of the United States to be that the United States Probation Office ("Probation Office") correctly

calculated the loss amount as more than \$3,500,000 but less than \$9,500,000, resulting in an increase of 18 levels from the base offense level. See Presentence Investigation Report (“PSR”) [Dkt. No. 30] at 16. The United States is directed to confirm in its supplemental memorandum whether it agrees that the loss amount is more than \$3,500,000 but less than \$9,500,000.

Mr. Grandberry did not state explicitly his position on the loss amount. As the Court noted at the June 29, 2021 hearing, if Mr. Grandberry disagrees with the Probation Office’s conclusion that the loss amount is more than \$3,500,000 but less than \$9,500,000, this could help explain how he calculated a total offense level of 20, while the United States and the Probation Office both calculated a total offense level of 24. Mr. Grandberry is directed to clarify in his supplemental memorandum whether he disagrees that the loss amount is more than \$3,500,000 but less than \$9,500,000, and if so, how he arrives at different loss amount.

The Court also seeks clarification on the parties’ positions concerning restitution. The United States is directed to clarify whether it still believes that the restitution amount is \$3,622,185, as well as whether the victims and corresponding restitution amounts identified in its sentencing memorandum still represent all of the victims that it believes are entitled to restitution, in the amounts stated for each victim. See Government’s Sentencing Memorandum [Dkt. No. 34], at 11. The Court notes that the United States’ restitution calculation differs from the Probation Office’s restitution calculation of \$4,135,419. See PSR at 13. The United States is directed to clarify the reasons for this discrepancy.

To the Court’s knowledge, Mr. Grandberry has not taken a position concerning the restitution amount or the individuals to whom restitution is owed. Mr. Grandberry is directed to clarify in his supplemental memorandum whether he disputes either of the restitution calculations and whether he adopts the views of the United States or the Probation Office

concerning restitution, or proposes some different amount for any of the victims. It therefore is hereby

ORDERED that on or before July 15, 2021, Mr. Grandberry shall submit a supplemental memorandum setting forth how he calculates the offense level under the Sentencing Guidelines; explaining whether he disagrees with the Probation Office's calculation that the loss amount is more than \$3,500,000 but less than \$9,500,000, and if so, how he arrives at a different loss amount; and clarifying his position on the restitution amount; and it is

FURTHER ORDERED that on or before July 15, 2021, the United States shall submit a supplemental memorandum explaining whether it agrees with the Probation Office's calculation that the loss amount is more than \$3,500,000 but less than \$9,500,000; confirming whether it continues to hold the position concerning restitution set forth in its Sentencing Memorandum [Dkt. No. 34]; and clarifying the reasons for the discrepancy between its restitution calculation and that of the Probation Office.

SO ORDERED.

/s/

PAUL L. FRIEDMAN
United States District Judge

DATE: July 1, 2021