

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

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BEFORE THE HONORABLE MORRISON C. ENGLAND, JR., JUDGE

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UNITED STATES OF AMERICA,

Plaintiff,

vs.

No. 2:06-cr-00035

LAUREN WEINER,

Defendant.

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REPORTER'S TRANSCRIPT

JUDGMENT AND SENTENCING

THURSDAY, DECEMBER 11, 2008

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Reported by: DIANE J. SHEPARD, CSR #6331, RPR

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APPEARANCES

For the Government:

LAWRENCE G. BROWN
ACTING UNITED STATES ATTORNEY
501 I Street, Suite 10-100
Sacramento, California 95814
BY: R. STEVEN LAPHAM
Assistant U.S. Attorney

For the Defendant:

JEFFREY S. WEINER, PHV
MYCKI RATZAN
9130 S. Dadeland Boulevard
Suite 1910
Miami, Florida 33156

1 SACRAMENTO, CALIFORNIA

2 THURSDAY, DECEMBER 11, 2008

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4 THE CLERK: Calling criminal case number 06-00035,
5 United States v. Lauren Weiner.

6 MR. LAPHAM: Good morning, Your Honor. Steve Lapham
7 for the United States.

8 THE COURT: Good morning.

9 MR. WEINER: Good morning, Your Honor. Jeff Weiner
10 and Mycki Ratzan on behalf of the defendant, Lauren Weiner, who
11 is present before the bar.

12 THE COURT: All right. Thank you. This is the time
13 and place set for the pronouncement of judgment and sentence.

14 I will state for the record that on May 30th, 2006,
15 the defendant, Lauren Weiner, pleaded guilty to a violation of
16 18 United States Code, Section 371, which is conspiracy, as
17 alleged in the one count superseding information.

18 The superseding information alleged that there was a
19 conspiracy to commit a violation of 18 United States Code,
20 Section 844(f) and (i).

21 The matter was referred to the Probation Office for
22 the preparation of a Presentence Report. That report was
23 prepared on January 24th, 2008. The Court has read and
24 reviewed that report.

25 Counsel, you both received and read a copy of that

1 report?

2 MR. LAPHAM: Yes, Your Honor.

3 MR. WEINER: Yes, Your Honor.

4 THE COURT: And you had sufficient time to address
5 the report with your client; is that correct?

6 MR. WEINER: We did, sir.

7 THE COURT: The Court will note first -- pardon me.

8 Ms. Weiner, did you have an attorney to review that
9 report?

10 THE DEFENDANT: Yes, I did, sir.

11 THE COURT: And did you have sufficient time to
12 discuss it with your attorney in detail?

13 THE DEFENDANT: Yes, I did, sir.

14 THE COURT: I will note for the record that there
15 were no written objections to the presentence report, that were
16 filed in a timely manner at least. I received notice from the
17 probation officer that there were documents filed in an
18 untimely manner, Mr. Weiner, as far as certain other requests
19 concerning the sentencing.

20 Can you tell me why this was not filed in a timely
21 basis as far as the requirements of this Court?

22 MR. WEINER: I'm not aware that that's the case, sir.
23 We had a deadline of Thursday, by the end of the business day,
24 the same day that the co-defendant, Zachary Jenson, was
25 sentenced, and what we filed, as far as I know, was filed

1 timely.

2 THE COURT: Ms. Alger.

3 MS. ALGER: It was the informal objections that
4 weren't received. They chose to waive that portion.

5 MR. WEINER: We have no informal objections.

6 THE COURT: You have no formal objections.

7 MR. WEINER: Right. That's correct.

8 THE COURT: You have no formal objections.

9 There being no formal objections to the report, the
10 Court will adopt the findings in the report and determine them
11 to be true and correct.

12 The advisory guidelines as set forth in that
13 probation report would indicate that the advisory offense level
14 will be 30, the advisory criminal-history category will be VI
15 based upon the nature of the offense. That would actually
16 provide for an offense range of 168 to 210 months.

17 That being said, the plea that was taken was to the
18 single count of conspiracy. The maximum period of
19 incarceration as to that count would be 60 months imprisonment.
20 Therefore notwithstanding the advisory guideline range being
21 168 to 210 months, the Court finds that the maximum offense --
22 or period of incarceration as to the offense pled guilty to
23 would be 60 months of imprisonment.

24 Is there any legal cause why judgment and sentencing
25 should not procedure at this time?

1 MR. WEINER: No legal cause. Although, Your Honor,
2 we respectfully ask that you take note of the addendum filed by
3 probation officer Linda Alger, dated 12-11 -- excuse me -- the
4 addendum which was presented to Your Honor, to the presentence
5 investigation report containing updated information and a
6 recommendation.

7 THE COURT: I have reviewed that addendum. That
8 recommendation from Ms. Alger is that it would be reduced to a
9 period of 24 months. There's also been a tremendous amount of
10 other documentation which was received by the Court, I believe
11 two days ago, including letters, psychological reports,
12 photographs, and other materials that the Court has reviewed.
13 Also letters, friends, family, co-workers, educators, newspaper
14 clippings. I have read every single bit that has been
15 submitted.

16 MR. WEINER: Thank you very much, sir.

17 THE COURT: There's no legal cause why judgment and
18 sentencing should not proceed at this time?

19 MR. LAPHAM: No, Your Honor.

20 THE COURT: Thank you.

21 Mr. Weiner, I know that you wish to make an argument
22 with respect to the sentence that your client should receive.
23 Go ahead, please.

24 MR. WEINER: Thank you very much. Your Honor, what
25 we would like to do, and what we discussed with Mr. Lapham, is

1 the entire group of -- almost all the people there are parents,
2 relatives, friends, et cetera, grandparents.

3 We're not going to call any of them. What we would
4 like to do is call two witnesses for about one minute each, and
5 then I would like to make a closing statement. Is that
6 acceptable, sir?

7 THE COURT: Yes.

8 MR. WEINER: Thank you.

9 Your Honor, at this time we would like to call
10 Ms. Rosa Boone. And may the defendant be seated for this
11 portion?

12 THE COURT: Yes. That's fine.

13 MR. WEINER: Would you prefer Ms. Boone to stand here
14 or be in the witness stand?

15 THE COURT: Here, please.

16 MS. WEINER: Ms. Boone, please raise your right hand
17 to be sworn.

18 THE CLERK: You do solemnly swear that the testimony
19 you are about to give in this matter now pending before the
20 Court is the truth, the whole truth, and nothing but the truth,
21 so help you God?

22 MS. BOONE: Yes.

23 THE CLERK: Please say and spell your name for the
24 record?

25 MS. BOONE: Good morning, Your Honor. My name is

1 Rosa Boone. I am the executive director for the Westchester
2 Coalition for the Hungry and Homeless.

3 MR. WEINER: Ms. Boone, will you very briefly tell us
4 just a little bit about yourself, and then I'm going to ask you
5 to talk with the judge about Lauren Weiner.

6 MS. BOONE: Thank you. I am, first, a mother,
7 grandmother, and a mother-in-law. I would like to say that I
8 really am a good human being. I do a lot of work for those
9 that are less fortunate in Westchester County, and I'm here
10 because I really believe Lauren Weiner is a really good person
11 and a reformed person.

12 MR. WEINER: Would you tell the judge just a little
13 bit about the Westchester Coalition, and the people, the number
14 of people, and organizations you support, and then let's talk
15 about Lauren Weiner, please.

16 MS. BOONE: Thank you.

17 The Westchester Coalition for the Hungry and Homeless
18 was founded in 1983. At the time it was founded, there were
19 only 14 food pantries and shelters throughout Westchester
20 County. As of today, we're working with 141. That is 72 food
21 pantries, 38 soup kitchens, and 31 shelters.

22 My job and my role is to really produce dollars that
23 will feed those people that come to the doors every day.
24 Currently it's about -- our population is about 978,000 people,
25 and 200,000 people are hungry in Westchester County. So my

1 role is really to make sure that no one goes to bed hungry.

2 MR. WEINER: Would you tell the Court when you first
3 met Lauren Weiner, under what circumstances, and how that
4 relationship has progressed.

5 MS. BOONE: Yes. Your Honor, I met Lauren in 2006,
6 after Lauren had some difficulties in her life. When I met
7 her, she was quite remorseful, very embarrassed, and wanted to
8 do something to become part of society whereas she would be
9 able to make a difference.

10 I worked with her. And it took me a while to really
11 decide if I wanted someone in my office who had done something
12 that was not acceptable. So when I met her, I realized that
13 this was a really great human being who had just made a bad
14 choice. And I felt at the time that I could direct her and be
15 with her and have her to become the human being that she is
16 today. So I'm really thrilled about that.

17 MR. WEINER: Now, you know that Magistrate Hollows
18 ordered Lauren Weiner to do community service during the period
19 of time she was released until today; is that correct?

20 MS. BOONE: That's correct.

21 MR. WEINER: And would you tell us about what
22 community service Lauren Weiner did with you and with your
23 organization, and be as specific as possible.

24 MS. BOONE: Right. Lauren has taken on the
25 responsibility of -- my office is very small, with a small

1 staff. And Lauren has taken on the responsibility to be part
2 of what we do. She does mailings for us. She works on the
3 computer. She does thank-you letters that go out on a timely
4 basis. Because with an organization like mine it's important
5 to get thank-you letters out to people who donate to you.
6 Lauren has created that thank-you letter, and it goes out quite
7 often.

8 She also has taken on the task of -- I needed, at one
9 point, someone to do an event at SUNY Purchase College, and it
10 required someone who really understood the mission of our
11 organization and what we really stood for. So Lauren took on
12 that role. She went to SUNY Purchase College. She set up a
13 table with all of our newsletters, brochures, et cetera. She
14 was able to answer so many questions that were put before her,
15 and we were able to come away with some volunteers and some
16 donors. So it was quite an important position that she took
17 on.

18 MR. WEINER: May I ask you this? I want to conclude
19 your testimony, but I want to make sure that after flying out
20 here that you feel you've said that you want to say to His
21 Honor, Judge England. So first of all, you understand that
22 Judge England has sole discretion as to what sentence to
23 impose.

24 But I view your role as a witness in assisting the
25 judge because he doesn't know Lauren Weiner and you do. So

1 talk to the Judge, please, and tell him what you think and that
2 will be fine.

3 MS. BOONE: Your Honor, I know that Lauren has really
4 become a different person today. I know I didn't always make
5 the best choices when I was 19, but I know today that Lauren
6 has accepted her role and her responsibility. I really do view
7 Lauren as a young woman who has accepted responsibility and who
8 is ready to move forward in the world that's changing. And she
9 has become an entrepreneur. And she's made all these charges
10 within the last three years.

11 So I feel that Lauren is someone who really needs to
12 be part of the society. She has tremendous things to give.
13 And I think if Lauren is behind prison bars, Lauren will not
14 have the opportunity to really make a difference in this world.
15 So I'm asking you to really think about my relationship with
16 her, and what she has shown, and what she has to give for the
17 future. Thank you, Your Honor.

18 THE COURT: Thank you.

19 MR. WEINER: Your Honor, if you or Mr. Lapham have
20 any questions, of course Ms. Boone is ready to answer them.

21 THE COURT: I have no questions.

22 MR. LAPHAM: I have none.

23 MR. WEINER: Thank you very much.

24 Your Honor, at this time we would like to call
25 Dr. Susan Fiester for very, very brief testimony. Dr. Fiester,

1 would you please raise your right hand to be sworn.

2 THE CLERK: You do solemnly swear that the testimony
3 you are about to give in this matter now pending before the
4 Court shall be the truth, the whole truth, and nothing but the
5 truth, so help you God?

6 DR. FIESTER: I do.

7 THE CLERK: Please say and spell your name for the
8 record.

9 DR. FIESTER: Susan J. Fiester, M.D. S-u-s-a-n J.
10 F-i-e-s-t-e-r.

11 MR. WEINER: Dr. Fiester, very briefly would you
12 please tell us about yourself, and then I'm going to ask you to
13 make a very, very brief summary to the Court from your
14 independent psychiatric viewpoint about Lauren Weiner.

15 DR. FIESTER: Thank you. Good morning, Your Honor.
16 I am a psychiatrist, and I have a clinical practice doing
17 mainly psychopharmacology, that means evaluation and
18 prescribing medication, and also part of my work is forensic
19 psychiatry in the court context.

20 I trained -- I did my undergraduate at Smith College,
21 graduated Cum Laude, and attended Yale University for ten
22 years, the medical school, the four-year residency training
23 program, and a two-year post doctoral fellowship program there.
24 I went on to work at various institutions including the NIH run
25 hospitals and do other kinds of various professional

1 activities.

2 I've taught at several different universities at
3 various points and been involved in research and have several
4 publications. I won't go into details of that.

5 MR. WEINER: Dr. Fiester, how did you first become
6 involved in this case now known as United States of America
7 versus Lauren Weiner.

8 DR. FIESTER: Well, your law office called me and
9 asked me to make an independent evaluation to assist the Court
10 in developing a plan for her release, and to help understand
11 why this woman -- young woman had become involved in the
12 criminal activity that she had engaged in.

13 MR. WEINER: Now, Doctor, understanding that His
14 Honor, Judge England, has read reports, and we're not here to
15 repeat anything that's already in them, would you just say what
16 you feel needs to be said in assist His Honor in imposing a
17 fair sentence.

18 DR. FIESTER: Yes. First, I just want Your Honor to
19 understand I've been involved in the case now for almost three
20 years. I've probably spent about 15 or 20 hours with Ms.
21 Weiner. I've made four or five home visits to her home, spoken
22 at least like ten times with her father and mother, interviewed
23 her grandparents, her housekeeper and baby sitter, her friends.
24 I visited her place of community service and interviewed the
25 supervisor. And recently this past week I visited the cafe

1 which she recently opened in a place called, believe it or not,
2 Sleepy Hollow, New York.

3 And I also oversaw her -- the arrangement of
4 psychological testing and educational testing, spoke with the
5 people who did that, and also arranged for her to get
6 psychiatric treatment from Dr. Samantha Knowlton, and also was
7 in periodic contact, both personally in person and by
8 telephone, with the psychiatrist, who I most recently talked
9 with yesterday, about her progress and treatment. I also
10 reviewed -- I won't go into it -- extensive documents in this
11 case, pretty much everything that was available to me. So
12 those were the activities.

13 MR. WEINER: Please tell Judge England what your
14 conclusions are.

15 DR. FIESTER: My conclusions are that this -- that
16 Lauren Weiner at the time she became involved in this crime was
17 an extraordinarily vulnerable individual. She had grown up
18 with some serious problems including Attention Deficit Disorder
19 and learning disabilities which hadn't been diagnosed. She
20 became sort of a social outcast in part because of some medical
21 problems she had, one of which, polycystic ovary disease, which
22 caused her to be obese. And she became very involved in social
23 issues and social activism, which during her high school years
24 took a normal course. For example, addressing hunger in the
25 world, cleaning up PCBs in the river and things like that.

1 However, when this pretty vulnerable individual, who
2 had become somewhat depressed, went off to college, things
3 really deteriorated. She became severely depressed, and she
4 wasn't really ready to go off and be independent. She was
5 really a kid who was very naive and lacked any sense of self or
6 identity and a lot of skills that people that go off to college
7 usually have.

8 While she was there, she became more involved in
9 working at a non-profit book store and met a number of people
10 involved in very fringe and what turned out to be violent
11 social activism, and became involved with them.

12 At that time, the testing we subsequently did showed
13 that this was a woman with really no sense of identity, who
14 would have attached herself to almost anybody who gave her
15 validation. She had no sense of her self worth, a very empty
16 life, no goals for herself, and was very idealistic and naive
17 and really had problems with her social judgment and abilities
18 to make appropriate judgments.

19 And I believe that those factors all contributed to
20 her -- the derailment of what for her were perhaps good
21 intentions earlier on but led her then to become involved with
22 a group of people and to take on activities with them, which
23 she now and subsequently understood was a very bad thing and
24 criminal activity.

25 Since I became involved in the case and have

1 performed evaluations, we set in place a comprehensive
2 treatment for her. As I mentioned, it involved the testing and
3 evaluation. I referred her to the psychiatrist whom she's seen
4 on a regular basis. She was treated with various medications
5 including antidepressant medication, mood stabilizers, and some
6 very strong anti anxiety medication, which subsequently she's
7 been able to come off because she's doing so much better.

8 She involved herself in AA and Al-Anon meetings. She
9 involved herself in education. She started attending college,
10 I think, for three semesters, and got EMT training, and then
11 involved herself in appropriate volunteer and community service
12 activity, one of which is the Westchester Coalition for the
13 Homeless. She was also involved in Habitat for Humanity, food
14 pantries and community food gardens. And then has recently
15 opened this -- helped conceive of and open this cafe, which
16 she's very involved.

17 And I would like to take one minute to mention the
18 kinds of changes I think have taken place in her over the last
19 three years as a result of this treatment plan that's been put
20 in place.

21 She now really has a sense of identity, an internal
22 sense of identity and doesn't just look to others. She has the
23 ability to say no. Her symptoms of psychiatric disorder are
24 much reduced. She's no longer depressed and no longer
25 traumatized.

1 I forgot to mention that a few weeks before her
2 involvement in the criminal activity, she was held up at
3 gunpoint in a book store, and was severely traumatized by that
4 and developed post-traumatic stress disorder. That's really
5 cleared up.

6 She's been sober with no drugs or alcohol. She has
7 completely changed her social network. She now socializes with
8 main stream people, couples, people who are working and living
9 lives as productive citizens. She's got much more maturity,
10 and is more grounded and realistic, and is coping much better.

11 She has a commitment to her psychiatric treatment and
12 has owe a focus on herself, not looking to other people. And
13 she has a better sense of who she can trust.

14 She has, in my opinion, sincere remorse and an
15 understanding of how her life got derailed. At the same time,
16 a total acceptance of her responsibility for that and an
17 acknowledgement of the changes she needs to make to put her
18 life back on track.

19 I believe she also has an understanding of the cost
20 of this -- her involvement in this activity has been to
21 society. And she now, I believe, has come to view this arrest
22 as one of the best things that ever happened in her life
23 because it allowed her to really change her life.

24 Before she was like a boat that had lost its mooring.
25 Now she's solidly moored and on a very different track and not

1 susceptible to being sort of buffeted by the tides in the
2 waters.

3 I think she's made remarkable, remarkable changes.
4 I've been involved in many forensic cases, and she's really
5 made extraordinary efforts and remarkable change. And I fully
6 believe that if she continues on this pathway with the
7 treatment and activities, her appropriate community service and
8 involvement, her treatment, that she has an excellent
9 prognosis, and that her risk for re-offending would be
10 absolutely minimal.

11 She's got fantastic family support, an incredibly
12 supportive extended family, and has been really, fully
13 compliant with all aspects of the -- of her release, the
14 criteria for her release.

15 She's living her life now as a law abiding, you know,
16 productive citizen who is almost on the verge of being able to
17 be self-supporting and able to get a place of her own. These
18 are really extraordinary changes for this girl. I say girl
19 because that's what she really was at the time this all
20 happened. She's turning in now into a young adult. Thank you,
21 Your Honor.

22 MR. WEINER: Anything else, Doctor, you want to add?

23 DR. FIESTER: I think that's it. I think in terms,
24 just to mention, the sense of punishment that she's received, I
25 think. She is a convicted felon. She's already found that's

1 been problematic when she has looked for community service work
2 and other positions. She's been ostracized. She's had to deal
3 with the public humiliation she's put her family through and
4 even deal with threats that she's received from people on the
5 internet. And she's been ostracized. I think she has had some
6 significant negative effects on her life that she's accepted
7 and dealt with at this point.

8 MR. WEINER: Final question, Doctor. Do you think
9 incarceration would benefit Lauren Weiner in any way?

10 DR. FIESTER: No. I think that would emphasize again
11 a sort of separation from society, a social marginalization,
12 putting her in a place where she's with the kind of people that
13 she, you know, would not necessarily have a positive influence
14 on her. And I think that continue -- she wouldn't be able to
15 receive the -- continue with the kind of psychiatric treatment
16 she's currently getting. So I don't feel that that kind of
17 individual treatment would be available generally in the prison
18 setting. At least the kind of individualized attention she's
19 been getting.

20 So I think it would, if anything, interrupt a course
21 of sort of a comprehensive plan which has really shown itself
22 to produce, I think, excellent changes and results in this
23 woman.

24 MR. WEINER: Thank you, Doctor. I have no further
25 questions.

1 THE COURT: Thank you. Mr. Lapham?

2 MR. LAPHAM: I have no questions.

3 THE COURT: Thank you.

4 MR. WEINER: Thank you for allowing us that time,
5 Your Honor. And I'm ready, at the Court's pleasure, to just
6 give a final statement.

7 THE COURT: Go ahead.

8 MR. WEINER: All right. Your Honor, I appreciate
9 that you read everything that we submitted. The young lady
10 that is before you today is a totally different person than the
11 person that I met really for the first time -- although she is
12 a cousin of mine -- when she was in custody. She looks
13 different. She acts different. She speaks different.

14 When she was arrested on January 13th, 2006, I then
15 had the pleasure of meeting Mr. Lapham and Ellen Endrizzi and
16 the agents involved in this case. We had a pretrial detention
17 hearing before United States Magistrate Judge Hollows. Judge
18 Hollows gave us a very thorough and wonderful hearing and
19 allowed us to develop the facts and ultimately release Lauren
20 Weiner, and only Lauren Weiner, not the other two
21 co-defendants, on pretrial release with certain conditions.

22 Those conditions, as Your Honor knows, included going
23 to school and/or community service and other restrictions.
24 Lauren Weiner has complied with those in every possible way,
25 above and beyond what anyone could be expected to do. And of

1 course she needed to comply, and she doesn't get an award for
2 that, nor am I suggesting one.

3 But she went far beyond that. She accomplished
4 everything that I think a judge would want someone to do. And
5 as an aside, we met with Magistrate Hollows earlier today to
6 let him meet with Lauren and see what his order really did to
7 help someone almost three years later, and how she has become a
8 productive member of society.

9 I want to say something else to you, Your Honor. Of
10 course, as lawyers, we monitored everything that's happened in
11 this case. I came out here for Mr. McDavid's sentencing. I've
12 been in touch with the lawyers involved in the case. I've been
13 in touch with Mr. Lapham. And I salute you for the sentence
14 that you gave to Zachary Jenson. We're asking for a similar
15 sentence but the difference -- because there are many
16 similarities, but there are also differences -- the big
17 difference is that when Lauren Weiner was arrested, she began
18 to cooperate almost immediately when Zach Jenson and Eric
19 McDavid would have no part of cooperating with the Government.

20 When she was taken into custody, Judge, she had
21 visits, that the Government is well aware of, from people who
22 supposedly were related to this ELF group, or who wanted to be,
23 or who somehow felt it was their business and job to go to
24 people who have been arrested for crimes such as what Lauren
25 Weiner was arrested for, and try to convince them to stay

1 strong, don't cooperate with the Government, let us get you
2 lawyers who will, you know, fight this case for you. And there
3 was enormous pressure.

4 I'll never forget when I came in for the bond
5 hearing, Judge. I've been a lawyer for 35 years. When I
6 walked in and I saw Lauren Weiner's parents here talking with
7 these people, and I'm, like, who are these people? And the
8 parents were in such a state of shock, they were like, I don't
9 know. These people say they want to help Lauren. And the
10 first thing was we're done. I told all these people, stop,
11 leave her alone. They continued to visit in jail. All sorts
12 of internet letters. Threats on the internet. Lauren's a
13 snitch. She's terrible.

14 I mean really, really bad things. Phone calls.
15 Visits in New York from people she never met before. All
16 telling her what, you know, I can't believe you're turning
17 evidence for the Government. You are a snitch. You are a bad
18 person, et cetera. And she held firm.

19 At the very beginning when the co-defendants would
20 have no interest in the Government, she sat and met with agent
21 after agent, and I was in there for many of those meetings,
22 both here and my law partner, Mycki Ratzan, who is present
23 before the Court, went to New York for debriefings that took
24 place.

25 In Sacramento, she met with not only Mr. Lapham and

1 Assistant United States Attorney Ellen Endrizzi, but also with
2 three special agents and supervisors, including a retired
3 major, who is now an FBI Special Agent from Philadelphia, who
4 flew in to talk with Lauren Weiner, to ask her about different
5 places she's been, to identify photographs, et cetera.

6 I can say this, Your Honor, after talking with Shari
7 Rusk, who is right here in court, and also with Mark Reichel,
8 both of whom are colleagues of mine, they both have said that
9 without a question Lauren's cooperation and willingness to
10 cooperate, number one, was a major inducement for Zach Jenson
11 to ultimately enter a plea, which he did, five months -- and
12 began cooperating many, many months after Lauren had
13 cooperated, and to cooperate himself.

14 And of course, Your Honor, you presided over the
15 trial. You saw both of them testify. So Mark Reichel told me
16 that Lauren Weiner was a devastatingly effective witness for
17 the Government. That he gave what he called a blistering
18 cross-examination, a professional cross-examination, and Lauren
19 Weiner was just devastating to his client.

20 So I think that's really important because it takes a
21 lot of strength to come into court. It's one thing to
22 cooperate. It's another thing to come into court and face
23 people who you know, and to testify when people are sitting in
24 the audience, including today, watching and listening and
25 trying to put pressure on.

1 So she came through for the Government. She was
2 truthful. She was candid. Mr. Lapham in his closing argument
3 to the jury repeatedly made reference to Lauren Weiner's
4 testimony.

5 Your Honor, what sometimes judges don't realize --
6 although I notice that you were Chief Defense Counsel in your
7 role as a Major in the United States Army, so certainly you can
8 relate to preparation.

9 Mr. Lapham called and wanted Lauren Weiner to come
10 out about two weeks before the trial began to assist. She was
11 on a plane almost the next day with her mother, camped out in a
12 hotel room, and spending each day with the FBI special agents
13 with earphones on, going through dozens, if not hundreds, of
14 hours of tape recordings right on the eve of trial, to be
15 certain that Mr. Lapham and Ms. Endrizzi had the correct people
16 who were talking on those tapes. Because a lot of those tapes
17 were unintelligible. Lauren Weiner was able to say, no, no,
18 here's what was said. She was able to clarify that, no, this
19 person didn't say this. This one did. She was of enormous
20 help and was thanked almost daily by the agents who were
21 working with her. So when she came in to testify, she
22 testified truthfully.

23 Your Honor, I'm not going to repeat, of course,
24 what's in the reports, and I'm going to conclude very briefly.
25 I want you to know that Lauren Weiner now gets up at 3:00 in

1 the morning. She is at this green cafe that she has, which
2 really embodies what she now believes. She's not
3 anti-business. She's not anti-establishment. She's not anti
4 anything. She's into doing the right thing. She drives almost
5 an hour to this cafe. She gets there and bakes all the
6 pastries, the breads. She's there when they open. She's the
7 chef. She works through the breakfast and lunch. She then
8 goes to Rosa Boone and to the Westchester Coalition, does her
9 community service, goes back to the restaurant, and goes home.
10 And that's been her routine.

11 So she's matured. She's been clean of any kind of
12 drugs, including marijuana, for the entire three-year period of
13 time. And she has just been ideal.

14 I also want to thank Mr. Lapham. I want to thank
15 Linda Alger. I want to thank the FBI agents. I've dealt with
16 them extensively. They've been fair. They have been
17 professional. They've been absolutely great in viewing this
18 case and in viewing Lauren Weiner in the proper context. And
19 that speaks volumes about them because with charges like she
20 originally had, it would be very easy to view her in a
21 different way, and they haven't done so, and I appreciate that
22 very, very much.

23 Finally, Your Honor, as we pointed out in our
24 sentencing memorandum, under 18 U.S.C. 3553(a) I believe all
25 the goals of sentencing would be accomplished with a sentence

1 of probation or of supervised release with credit for time
2 served.

3 I want to say one more thing. I just read the book
4 by Justice Scalia about effective lawyering, so I couldn't help
5 in talking to my many friends and colleagues here and learning
6 that Your Honor was a football player and a football coach. I
7 have four sons, three of them are football players, and I guess
8 what I want to say is you dealt with young people, you were a
9 football player, and I would venture to say what I have
10 experienced with kids on the teams that my boys play on, most
11 are great and some make horrendous mistakes that destroy their
12 lives.

13 Lauren Weiner is now a convicted felon and will be
14 forever because, unfortunately, unlike in the state system,
15 where I know Your Honor was a Judge, there is no provision for
16 withholding of adjudication. She will be a convicted felon for
17 life unless someday many, many years she gets a Presidential
18 pardon, which personally I think is very unlikely.

19 Your Honor, in my years of practice there is almost
20 no week that goes by without somebody coming in saying, please
21 help me, please set my felony conviction aside. What I did was
22 so stupid when I was 18 years old, 20 years old, 22. Now I'm
23 married. I have kids. I have lived a law abiding, great life.
24 But I can't get jobs. I'm foreclosed from being licensed.

25 Lauren Weiner passed the emergency medical technician schooling

1 while she's out on bond. She can't get licensed because she's
2 a convicted felon. She applied to culinary school. They said
3 no. We're not accepting you. You are a convicted felon.

4 This is just the beginning of a lifetime of
5 foreclosed opportunities because of her actions, and she
6 accepts full responsibility. And I don't want Your Honor to
7 feel for a minute that Dr. Fiester or Rosa Boone were up here
8 suggesting that somehow Lauren Weiner doesn't deserve
9 punishment for what she did.

10 But what we are suggesting is she has been punished.
11 She has disgraced and embarrassed herself, the most incredible
12 loving family. She has paid the price. She accepts her
13 responsibility. She did everything she could to right the
14 wrong she did by cooperating and by testifying and by doing it
15 all right.

16 So Your Honor, I sincerely hope that you will treat
17 her similarly as a similarly-situated co-defendant Zach Jenson,
18 but give her the extra benefit for being the brave one and the
19 smart one, and the one who said I'm not going to go ahead with
20 an entrapment defense. I'm not going to go ahead with trial.
21 I'm not going to play games. I'm not going to engage in
22 extensive discovery and motion. I'm going to cooperate now.
23 I'm going to do what the agents want. I'm going to go to
24 Philly and meet with agents. I'm going to do whatever it takes
25 to turn my life around. And it's been a process, and she's

1 done it. And we are very, very proud of her.

2 We are ready for sentencing. Whatever Your Honor
3 imposes, I know it will be fair, I know it will be what is in
4 your heart. And thank you very much.

5 THE COURT: Thank you, Mr. Weiner. Mr. Lapham.

6 MR. LAPHAM: Your Honor, the Government's position is
7 similar to the one I expressed to you last week with respect to
8 Mr. Jenson. The Government doesn't view jail time as necessary
9 for rehabilitative purposes. I don't have any serious
10 disagreement with either of the two witnesses who spoke to you
11 this morning.

12 The question is really the same as in Mr. Jenson's
13 sentencing, whether or not due to the seriousness and the
14 gravity of these offenses, jail time is necessary to satisfy
15 the deterrent purposes of sentencing. And I know you asked me
16 to address the disparity issue last week, and so I'll do that
17 again this week.

18 In terms of relative culpability, I would place Ms.
19 Weiner somewhere in between Mr. McDavid and Mr. Jenson. She
20 was more involved in this conspiracy, frankly, than Mr. Jenson.
21 If you will recall, she was the person who purchased the Poor
22 Man's James Bond, who scouted out explosive recipes to be used
23 for the various targets. She was involved, very much involved
24 in the targeting discussions. Her particular favorite was cell
25 phone towers, and she actively advocated for that.

1 She was involved in the discussion regarding
2 accidental death. What happens if one of our bombs should
3 accidentally kill someone? And unlike Mr. Jenson, she didn't
4 reject that out-of-hand immediately as Mr. Jenson did. She had
5 a fairly common, dispassionate discussion about the relative
6 value of the life that might be taken, whether or not this
7 person might be somebody who we're trying to defend or
8 represent, or whether he was just another member of the
9 establishment.

10 She was also familiar, and I think this is
11 significant, with the ELF guidelines, the Earth Liberation
12 Front guidelines. There were discussions where she questioned
13 whether or not a particular action would fall within those
14 guidelines. So she was not unknowledgeable about that and
15 about radical literature in general.

16 In the end, though, these may be distinctions without
17 a difference. There's no question that Lauren Weiner was very
18 immature, I think, for her age, and she was 19 or 20 at the
19 time of the offense. I do think she made some very poor
20 judgments, which she now regrets.

21 And, Your Honor, that is the big problem with ELF and
22 ALF. They put out the word that we want you to commit these
23 violent acts in the name of ELF or ALF. They tell the
24 individuals how to do it. There is a manual on arson, manual
25 and how to commit arson, how to make the explosive devices to

1 accomplish these deeds. Then they tell you after you've done
2 it to take responsibility on behalf of ELF. And these faceless
3 websites and these nameless individuals encourage young people
4 like Lauren Weiner to commit these crimes, and then they fade
5 into the woodwork. They don't bear any responsibility for
6 these crimes. And there are young and impressionable people
7 like Zach Jenson and Lauren Weiner who fall for this.

8 Now, in contrast to that, we have Eric McDavid, who
9 was 28 years old at the time of these events. He was the
10 driving force behind the conspiracy. He recruited all the
11 members of the conspiracy and came up with the original idea
12 for the bombing -- for bombing as the goal of the group. It
13 was his target, the Institute of Forest Genetics, which
14 ultimately became the primary target of the group.

15 When they did reconnoissance of the Institute of
16 Forest Genetics, it was Eric McDavid who drew the map, who took
17 note of surveillance cameras, who took note of the fact that
18 there were residential houses on board, and there was a
19 discussion that I've already referred to about that. And it
20 was Eric McDavid who, during the discussion of accidental
21 death, said that if it happens it happens. He was totally
22 unconcerned with the possibility that someone might be killed.

23 Now, I want to take issue with a couple of things
24 Mr. Weiner said just to set the record straight. I don't
25 believe it's accurate to say that Lauren Weiner encouraged or

1 was any part of Zach Jenson pleading guilty. He came in fairly
2 early, as she did, and indicated an interest in pleading
3 guilty. And I can't know what was in his head at the time, but
4 from our perspective it didn't appear that the two events were
5 connected.

6 And I'll leave it to you. My own estimation of her
7 testimony at trial was that she did not present as the greatest
8 witness. That doesn't bear heavily on my thinking in this
9 case. But you were there. You could see her testimony and
10 assess it as well.

11 Your Honor, in the end, and I'm summing up now, I
12 feel very similar to our position in the Jenson matter. I
13 think she was more culpable as between the two. Mr. Jenson,
14 because of the circumstances of him not being able to get out
15 of custody as early as she did, wound up serving a six-month
16 sentence. That was largely because he did not have the
17 custodial environment to go to like Ms. Weiner did, and so it
18 took him a while to work out terms of a third-party custodian
19 with whom he could live. But as a result, he wound up serving
20 six months. Ms. Weiner spent about a month in jail, as I
21 recall.

22 As I say, I think the Government will leave up to you
23 the decision whether or not, just for deterrent purposes, any
24 amount of jail time is necessary. And with that, unless the
25 Court has any questions, I conclude.

1 THE COURT: Mr. Lapham, you know the Court gave great
2 consideration to the fact that -- and I guess -- and I should
3 -- not a guess -- I'm going to say at this point in time that
4 in making a determination as to what the sentence will be for
5 Ms. Weiner, the Court will look to the guidance provided by the
6 United States Supreme Court in the cases of United States
7 versus Booker and United States versus Fanfan.

8 It will also look to the advisory guidelines which
9 have been promulgated by the United States Sentencing
10 Commission, and also specifically the statutory factors
11 contained in 18 United States Code, Section 3553(a).

12 The final criteria that the Court will look to, those
13 being the statutory factors, require that the Court fashion a
14 sentence which will be fair, just, and reasonable. One which
15 would be sufficiently long enough to punish this particular
16 defendant and deter others from committing similar types of
17 criminal activity, but not be longer than what is necessary to
18 achieve that objective.

19 The Court in looking at the case of Mr. Jenson -- and
20 I want to make it very clear that Mr. Jenson's sentence stood
21 completely on its own. It will have no effect upon the
22 sentence that Ms. Weiner will get. This is not a package deal.
23 There is no consideration being given to either side. Each of
24 these defendants must stand or fall upon their own specific
25 sentencing factors.

1 That means that the Court will take into
2 consideration the nature and circumstances of the offense. And
3 in this particular case it is an offense of conspiracy, a
4 conspiracy which was to engage in extremely violent behavior
5 which had the potential for not only causing extreme property
6 damage to Government facilities, but also had the potential,
7 which was discussed, of causing great bodily harm and/or
8 possibly death to innocent humans who may be involved or in
9 that particular area. So the Court does understand that the
10 underlying conspiracy was for an extremely violent offense. So
11 the Court has to take that into account.

12 In addition, however, the Court must take into
13 account the history and characteristics of the defendant. The
14 Court has heard a great deal of testimony today regarding the
15 history and characteristics of Ms. Weiner as far as what
16 happened prior to the incident in question, and now subsequent
17 to her arrest and plea as far as what she has done with her
18 life during the subsequent portion.

19 There is also the factor that the Court referred to
20 in sentencing Mr. Jenson, that there should not be any
21 unwarranted sentencing disparities among similarly-situated
22 defendants who have been found guilty of similar criminal
23 conduct.

24 The question and the point that was raised is that
25 there may be dissimilarities, but in this particular case, at

1 least as it was referred to Mr. Jenson, they are not
2 unwarranted. They are warranted because of the circumstances
3 of the particular defendant and what has taken place subsequent
4 to that.

5 Mr. Lapham, Mr. Jenson, as you indicated, for
6 whatever reason was not able to obtain a release from custody
7 as quickly as Ms. Weiner. As a result, he was required to
8 serve approximately six months of incarceration. This Court
9 sentenced him in a very similar situation, similar defendant,
10 to six months, and he was given credit for time served.

11 In this case, Ms. Weiner has not served anywhere
12 close to the amount of time that Mr. Jenson served for at the
13 very least similar conduct. And I will have to agree with you
14 that when it comes to the culpability of the three defendants,
15 I think Mr. Jenson was the least culpable. Ms. Weiner was more
16 culpable because of the actual activities that she undertook,
17 such as you mentioned, purchasing the Poor Man's James Bond,
18 actually making comments that we heard about certain collateral
19 damage that would occur and what effect it would have.

20 Although she does not on the scale get anywhere close
21 to the Eric McDavid, who was clearly the mastermind, and who
22 had the wherewithal to commit these crimes and has been
23 sentenced accordingly, I do not find that she is exactly the
24 same as or less than Mr. Jenson.

25 What is your position with the respect to the

1 potential disparity in the sentencing that has been given in
2 that one was six months, and he was given credit for time
3 served, and here would be what I would consider to be possibly
4 a more culpable, although very slightly, defendant who would,
5 according to Mr. Weiner, be requesting a far more lenient
6 sentence in this Court's opinion?

7 MR. LAPHAM: Well, that's certainly a problem, Your
8 Honor. And that's why I pointed it out. That if the Court
9 were to go along with the time-served sentence, that doesn't
10 certainly seem to be fair to Mr. Jenson and to give proper
11 proportionality to the three defendants.

12 THE COURT: Mr. Weiner?

13 MR. WEINER: Your Honor, I appreciate everything that
14 you've said. But the bottom line here is that Lauren Weiner
15 cooperated months and months before Zach Jenson cooperated. So
16 if there was ever an equalizer, and ever something that was
17 repeatedly told to us, how much it was appreciated by the
18 prosecutors, and by the FBI agents, both here and in other
19 cities, is that while Mr. Jenson was, unfortunately, in
20 custody, Lauren Weiner was cooperating, and I think that is a
21 great equalizer.

22 And I also just want to say one other thing. Your
23 analysis I appreciate very, very much. Hopefully in the mix,
24 Your Honor, you will consider not only the timing of
25 cooperation, but the extensive cooperation. And I know in Zach

1 Jenson's case you were very impressed with this young man, and
2 where he had come from, and what he was doing now as a manager
3 of a pizza store and all that, and that's great.

4 Lauren Weiner has done that and more. And honestly,
5 you know from the testimony Lauren Weiner had a relationship
6 with Zach Jenson. She had a relationship with Eric McDavid.
7 And with Anna, the FBI informant.

8 For someone who was in such pathetic shape that she
9 was sitting in a chair -- I don't know if Mr. Lapham remembers
10 -- but in custody, when she first began to cooperate, almost in
11 a fetal position, just completely out of it, to who she is now,
12 I just think that giving her time in custody, whether it's
13 local time or halfway house or anything else, is counter
14 productive to the message of cooperate early, take advantage of
15 pretrial release, and do everything and more.

16 And she has done everything and more. She's totally
17 clean. She's turned her life around. She will only make this
18 Court proud of her. She will never commit another crime.
19 She's already spoken to young people about not messing up your
20 lives like she did.

21 And by the way, I know Your Honor noted, but there
22 were several magazine articles and newspaper articles written
23 about this case and about Lauren Weiner. And in every single
24 one of them, under my advice, because she was too embarrassed
25 to say anything, I told her you talk to these reporters. She

1 did. And the constant theme and the constant message was I
2 destroyed my life. I did it wrong. Don't you make that same
3 mistake.

4 And she is happy to go to schools and talk to other
5 young people and tell them what an FBI agent can't, what a
6 judge can't, what a lawyer can't, what a teacher can't. And
7 that is, I'm basically your age. I've been there. I'm now a
8 convicted felon. Look what I was facing, learn from my
9 mistake. And she's an articulate spokesperson now, unlike the
10 person who was before this Court three years ago, who is Lauren
11 Weiner in body and name, but is a totally, totally different
12 person now.

13 THE COURT: Any follow up?

14 MR. LAPHAM: Your Honor, as far as this who came in
15 first to cooperate, now that I do consider a distinction
16 without a difference. Zachary Johnson indicated very early --
17 I don't remember precisely when -- but he indicated very early
18 he wanted to cooperate. If there was any delay, it was
19 probably on our part trying to decide whether we wanted
20 cooperation out of either one of them, and how we were going to
21 fashion that from a strategic standpoint, so I can't credit
22 that very much.

23 THE COURT: Excuse me.

24 (Discussion between Court and Probation Officer Linda
25 Alger.)

1 THE COURT: All right. At this time, I've heard all
2 that I need to hear from counsel. I would like to hear from
3 Ms. Weiner, to give her her right of allocution.

4 Ms. Weiner, the right of allocution is something that
5 you are given prior to a judgment and sentence being incurred
6 in your case. You do have that right to say something,
7 although you are not required to.

8 Do you wish to say anything to the Court prior to
9 your Judgment and Sentencing being entered.

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Go ahead.

12 THE DEFENDANT: I would like to say that I'm not the
13 same person I was three years ago. I've changed. And I would
14 like to continue the opportunity to make up my mistakes to my
15 family and my community and also myself. I thank the Court
16 very much for their time and apologize for all of this
17 profusely.

18 THE COURT: All right. Anything else? Is that no?

19 THE DEFENDANT: No.

20 THE COURT: All right. Is the matter submitted?

21 MR. WEINER: Yes, Your Honor.

22 MR. LAPHAM: Yes, Your Honor.

23 THE COURT: Once again I believe that the Court has
24 stated the factors that must be taken into consideration when
25 sentencing an individual in a criminal case.

1 This particular case is a very unique case in that it
2 involved a number of people that were engaged in planning an
3 extremely violent activity. One was extremely culpable and two
4 others were not as culpable but were actively involved in the
5 conspiracy. As a result, they did in fact plead guilty, and I
6 think that the guilty pleas are more than appropriate.

7 As I've indicated previously, the Court has to
8 fashion a sentence which will satisfy the statutory goals of
9 punishment, which is a requirement, as well as deterrence, but
10 that sentence should not be longer than necessary to achieve
11 that goal.

12 As I've stated previously also, I do believe that if
13 we are looking at levels of culpability, Ms. Weiner, I believe,
14 is somewhat more culpable than Mr. Jenson. That being said,
15 both of them, as Mr. Lapham has referred to a distinction
16 without a difference, it's still relatively on the low end, but
17 it was something that was extremely -- had the potential for
18 extreme violence and injury and/or death. Fortunately, it
19 didn't occur.

20 I have taken into consideration the age of Ms.
21 Weiner. I have taken into consideration the factors as
22 indicated by the doctor who was here today, and also read the
23 psychological reports, the MMPIs, all the different things that
24 have been gone into, providing the Court with a psychological
25 analysis of Ms. Weiner, which although it is relevant, I can't

1 say that any type of psychological reports or anything else
2 will be the guiding force or factor in a criminal sentencing
3 matter. It is just a factor that the Court can consider. This
4 Court again has the obligation to impose a punishment and also
5 create a deterrence.

6 That having been said, the Court has determined that
7 there would be certain discrepancies unless certain things were
8 done here with this particular defendant.

9 And I will commend you, Ms. Weiner, on everything
10 that you've done since the time you've been arrested, and
11 you've been involved in community service. You have been an
12 outstanding citizen, which is a far cry from where it was four
13 years ago. I appreciate that. You must continue to do that.

14 Because as I mentioned to Mr. Jenson, if there are
15 things that you don't agree with in society, and we all have
16 disagreements, whether it be political or otherwise, there are
17 appropriate and proper ways that it gets changed. Violence or
18 any other type of activity, which is outside the rule of law is
19 not permitted in a civilized society, and that's something that
20 you've got to learn, and everyone needs to learn and understand
21 that.

22 And they also need to learn and understand that for
23 every action that you engage in which is outside those norms of
24 society, there will be some repercussion that you will have to
25 suffer. We all have to suffer. Whether it be something that

1 you are going to see in just a moment, or whether it's a
2 speeding ticket, or whatever it is, we all have to have some
3 repercussion or adjustment for when we violate the law.

4 I've taken all this into consideration, and it is the
5 judgment and sentence of this Court that the defendant, Lauren
6 Weiner, will be committed to a period of time served. As a
7 condition of her being sentenced to the period of time served,
8 she will also serve five months of home detention as a
9 condition of the time served. That will allow her to continue
10 to pursue her employment. I think that is extremely important
11 under the circumstances.

12 But it's also going to be a reminder to not only
13 herself and to anyone who she comes in contact with that she
14 is, as you said, a convicted felon, and there are
15 responsibilities and repercussions that you must observe.

16 Your time while you are on home detention will cause
17 you to be severely restricted.

18 Ms. Alger, do you have the further conditions at this
19 time for the home detention?

20 MS. ALGER: Yes, sir.

21 THE COURT: Specifically, the defendant, Lauren
22 Weiner, will comply with the conditions of home detention for a
23 period not to exceed 150 consecutive days, to commence when
24 directed by the Probation Officer of the Eastern District of
25 California.

1 During that time, the defendant will remain at her
2 place of residence except for periods of employment or any
3 other activities which have been approved in advance by the
4 Probation Officer.

5 The defendant will maintain telephone service at her
6 place of residence without an answering device, call
7 forwarding, modem, caller ID, or cordless phone during that
8 entire 150-day period.

9 At the discretion of the Probation Officer, the
10 defendant will also wear an electronic monitoring device and
11 follow electronic monitoring procedures as specified by her
12 Probation Officer.

13 The defendant will pay all costs of that electronic
14 monitoring as determined by the Probation Officer.

15 The defendant will also pay a special assessment of
16 \$100 immediately.

17 The Court finds that the defendant does not have the
18 ability to pay a fine, so a fine is waived.

19 Upon release from imprisonment, the defendant will be
20 placed on supervised release.

21 Here, I have provided that Mr. Jenson would have a
22 period of three years.

23 Ms. Weiner, I believe once again that you have an
24 additional period of culpability in this, and I believe that
25 you therefore warrant an additional period of supervised

1 release, so I'm placing you on supervised release for a period
2 of 60 months.

3 Immediately after this, you are to report to the
4 probation office to prepare any type of documentation or
5 execute any documents needed for your home detention,
6 electronic monitoring, or your 60 months of supervised release.

7 During the period of your supervised release, you
8 will not commit any other federal, state, or local crime, nor
9 possess a firearm, nor illegally possess or use any controlled
10 substances.

11 You will also submit to the collection of DNA, and
12 comply with all standard conditions recommended by the U.S.
13 Sentencing Commission and adopted by this Court.

14 You will submit to one drug test within 15 days of
15 release from imprisonment, and at least two periodic drug tests
16 thereafter. Not to exceed four tests per month.

17 While you are on supervised release, you will submit
18 to the search of your person, property, home, vehicle, by any
19 United States Probation Officer, with or without a search
20 warrant. And that applies to any authorized person under the
21 immediate and personal supervision of the Probation Officer.

22 If you fail to submit to searches of any portion of
23 your home, vehicle, or person during your period of supervised
24 release, that will be grounds for revoking your supervised
25 release, and you being returned or forced to serve a period of

1 incarceration.

2 I'll make a further order that any violations of
3 supervised release during the period of 60 months are to be
4 brought immediately to the attention of this Court. Because I
5 will personally handle any violations of your supervised
6 release, and they will be handled swiftly and appropriately.
7 Do you understand that?

8 THE DEFENDANT: Yes, I do, sir.

9 THE COURT: You will also warn any other persons
10 where you reside that you are subject to searches pursuant to
11 the condition that I have just imposed upon you.

12 You will also participate in programs to obtain
13 assistance for drug or alcohol abuse. You will participate in
14 a program of testing to determine if you have reverted to the
15 use of drugs, and participate in a program of mental health
16 treatment. All to be determined by the Probation Officer.

17 And you will make co-payments of up to \$25 per month
18 for any such treatment or testing plan to the Probation
19 Officer.

20 You will also consent to the Probation Officer, or
21 any representative of the Probation Officer, to conduct
22 periodic, unannounced examinations of any computer,
23 computer-related device, or equipment that has an
24 internal/external modem, which is in possession of you or your
25 control.

1 You will consent to the retrieval and copying of all
2 data from any such computer, computer-related device, or
3 equipment, as well as any internal or external peripherals to
4 ensure compliance with these conditions.

5 You will consent to removal of any such computer or
6 computer-related device and equipment for purposes of
7 conducting a more thorough inspection and/or analysis.

8 You will also consent to having installed on any
9 computer that you have possession or ownership of, or any
10 computer-related device, at your expense, any hardware or
11 software systems designed to monitor the use of your computer
12 or computer-related device and equipment at the direction of
13 the probation officer.

14 And you will agree not to tamper with such hardware
15 or software, and will not install or use any other software
16 programs designed to hide, alter, or delete your computer
17 activities.

18 You will also consent to not installing any new
19 hardware on any computer or computer-related device without the
20 prior approval of the Probation Officer.

21 You will also register as required in any
22 jurisdiction where you reside as an arson offender.

23 The Court finds that the advisory range originally
24 did not exceed 24 months, and there were no aggravating or
25 mitigating circumstances of a kind or to a degree that were not

1 taken into consideration by the Sentencing Commission when
2 determining what the advisory guideline range would be, in this
3 case the statutory maximum of 60 months.

4 Ms. Weiner, by the terms of your plea agreement, you
5 agreed that you would not appeal from any sentence that was
6 imposed by this Court concerning your crime. I will tell you
7 that those waivers are generally enforceable. If you believe
8 that your waiver of no appeal as to the sentence that I've
9 imposed today is not enforceable, you can make that argument to
10 an appellate court.

11 If so, you must make that argument within ten days of
12 judgment being entered in your case. If you cannot afford the
13 cost of the appellate attorney, the cost of the appeal itself,
14 those costs can be waived.

15 And if you so request it, the Clerk of the Court will
16 file a Notice of Appeal on your behalf.

17 Do you understand your rights of appeal as I've given
18 them to you today?

19 THE DEFENDANT: Yes.

20 THE COURT: Mr. Weiner is there anything further at
21 this time?

22 MR. WEINER: Nothing further, sir.

23 THE COURT: Mr. Lapham?

24 MR. LAPHAM: Your Honor, I think there are three
25 things. Unless I missed it, I don't think you imposed the

1 special assessment.

2 THE COURT: I thought I did.

3 MS. ALGER: Yes, you did.

4 MR. LAPHAM: Again, if I'm not mistaken, I think the
5 maximum term of supervised release the Court can impose based
6 on the statute for which she was convicted is three years, not
7 five.

8 MS. ALGER: I'm sorry. He is correct. I gave you
9 bad information.

10 THE COURT: Thank you. Three.

11 MR. LAPHAM: And finally, Ms. Weiner pled to a
12 superseding information. So at this time, the United States
13 would move to dismiss the underlying Indictment.

14 THE COURT: Motion is granted. Yes.

15 MS. ALGER: Am I to take from your order that you
16 would prefer not to transfer jurisdiction at any time in this
17 case to the District of New York, you want to maintain
18 jurisdiction?

19 THE COURT: I would like to maintain personal
20 jurisdiction over this defendant.

21 MR. WEINER: Judge, of course, we have no objection,
22 but, obviously, in order for her to be supervised on home
23 detention, of course the Probation people who have been
24 supervising her I presume you want to conduct the local drug
25 testing and ankle bracelet if they want it, etcetera, is that

1 correct?

2 MS. ALGER: Supervision will be transferred to New
3 York. Jurisdiction will stay here with Judge England.

4 THE COURT: The actual day-to-day is going to be
5 something local. We're not going to have Ms. Alger -- even
6 though she may wish to fly to New York, she's not going to be
7 flying to New York. That will be the order.

8 MR. WEINER: Thank you very much.

9 MR. LAPHAM: Thank you, Your Honor.

10 (End of transcript.)

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CERTIFICATION

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I, Diane J. Shepard, certify that the foregoing is a
14 correct transcript from the record of proceedings in the
15 above-entitled matter.

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/s/ DIANE J. SHEPARD
DIANE J. SHEPARD, CSR #6331, RPR
Official Court Reporter
United States District Court

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