

032-95

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
611 Broad Street, Suite 237
LAKE CHARLES, LOUISIANA 70601

JAMES T. TRIMBLE, JR.
U.S. DISTRICT JUDGE

TELEPHONE (318) 437-3884
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March 2, 1995

U. S. Sentencing Commission
Attn: Public Comment
Federal Judiciary Building
1 Columbus Circle, N.E.
Washington, D.C. 20002

Dear Ladies and Gentlemen of the Commission:

I enclose herewith a letter that I wrote to you on December 17, 1992 which is self-explanatory. In response to that letter, I received a telephone call from one of the Commission employees who advised that in 1993 there would be some review by the Commission of sentencing guidelines related to the taking of property. He did not indicate whether the Commission was considering increasing or decreasing the sentences for property-related offenses.

I write you again because I am faced with the prospect of sentencing a woman who systematically, over a period of several years, stole money from her mother's employers who were close personal friends. In addition, she embezzled from accounts which the employers had set up in the names of their children. The resultant loss to the employers, the children, and banks involved amounts to in excess of \$133,000.

For the above heinous conduct, I, under your guidelines, am authorized to sentence this individual to a total of 18 months imprisonment. She cannot make restitution.

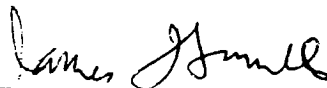
Again, I ask your venerable group, how can you seriously contend that crime does not pay when someone can take another person's property to the tune of over \$133,000 and face a maximum of 18 months imprisonment?

Since writing you in 1992, I have had a number of other cases where I have almost written again. One involved the sentencing of a bank employee who defrauded an elderly widow, a customer of the bank, of \$187,000, virtually all of her life's savings. With the proceeds, he purchased himself a new car and built a swimming pool in his backyard, among other things. Under your guidelines, which I was constrained to follow, he was sent to prison for 27 months, the maximum.

When the sentencing guidelines were instituted, I regarded them in a much more positive light than many of my fellow judges. I saw the merit in having some uniformity in sentences. Overall, I do not have any serious complaints with the guidelines, except in the area of property losses. I do not feel that the Commission considers the victim in the slightest in devising guidelines in these cases. I cannot imagine that there is one member of the Commission who would feel that 18 months would be an adequate sentence if someone stole \$133,000 of his or her hard-earned cash with no prospect of having it repaid. That is what we are facing in the case that causes me to write today.

Please "get real" when it comes to guidelines involving the taking of people's property.

Yours very truly,



JAMES T. TRIMBLE, JR.

JTTjr/rh

December 17, 1992

U. S. Sentencing Commission
Attn: Public Comment
Federal Judiciary Building
1 Columbus Circle, N.E.
Washington, D.C. 20002

Dear Ladies and Gentlemen of the Commission:

This letter is sent in the hope that it will influence you to substantially raise the offense level of crimes involving theft of property, which in some cases carry a tremendous victim impact, so that we as judges can mete out meaningful punishment to theft offenders. What prompted this letter is the fact that within less than two weeks, I will have sentenced six defendants who entered guilty pleas to car theft and one who entered a plea of guilty to mail fraud.

I simply do not have time to outline all of these cases for you, but will give you illustrative samples. In one case, the defendant, along with his cousin, stole a new GMC Suburban valued at some \$24,000. He was assigned one criminal history point for having been found guilty of possession of marijuana in 1988 and in 1985 he was found guilty of unlawful possession of a handgun, for which he was assigned no criminal history points. Under the guidelines, he has an offense level of 12 and a criminal history category of I, for which he can be imprisoned for from 6 to 12 months. In my mind, the idea that someone can get away with stealing \$24,000 of another man's property and be exposed to only 12 months incarceration (none of these people are able to pay a fine, costs of incarceration, etc.) totally belies the adage that crime does not pay. Such a lenient sentence, I feel, is a virtual invitation for repetition of what I consider a very serious crime. We have come a long way, perhaps too far, since the days when a man could be hanged for theft of a horse. This defendant's cousin, with two prior DWI convictions, can be sentenced to a maximum of 14 months under the guidelines. The other vehicle thefts were limited to correspondingly insubstantial sentences.

The mail fraud case involved an individual with no prior convictions who, using the mail service, as an employee of an insurance adjusting agency, defrauded an insurer of over \$150,000. His offense level of 14 and criminal history category of I provides a guideline range of imprisonment from 15 to 21 months. The fraud that he perpetrated against the insurance company client of the

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firm caused the owner of the firm to be personally liable for repayment of the funds stolen by the employee. Twenty-one months, even in state facilities where there are fewer "amenities" than in our federal accommodations, does not begin to be adequate to deter a criminal mind - which we are dealing with in all of these cases - from its nefarious purpose.

I might add that I spoke to an attorney friend of mine who does not work in the criminal law field, but who has a most compassionate disposition, about the first case discussed above. Without revealing the statutory limit of 10 years or the guideline range of 6 to 12 months, I asked him what type of sentence he felt would be appropriate in such a case. His response, after reflecting several minutes, was that he felt that imprisonment for 3 to 5 years would be justified. I fully agree with him.

This letter is, purely and simply, a plea that the Sentencing Commission reconsider the guideline ranges in all offenses involving loss of property by the victim with a view to substantially increasing the ranges.

Thank you very kindly for your consideration.

Sincerely,

JAMES T. TRIMBLE, JR.

JTTjr/rh