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**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK**

**UNITED STATES OF AMERICA,**

Plaintiff,

vs.

**DARIN L. BUTTS, JR.,**

Defendant.

Case No. 1:23-cr-141  
(LJV)

March 20, 2025

**TRANSCRIPT OF SENTENCING  
BEFORE THE HONORABLE LAWRENCE J. VILARDO  
UNITED STATES DISTRICT JUDGE**

**APPEARANCES:**

**MICHAEL DiGIACOMO, UNITED STATES ATTORNEY  
BY: LOUIS A. TESTANI, ESQ.**

Assistant United States Attorney  
Federal Centre  
138 Delaware Avenue  
Buffalo, New York 14202  
For the Plaintiff

**LAW OFFICES OF THOMAS J. EOANNOU  
BY: THOMAS J. EOANNOU, ESQ.**

484 Delaware Avenue  
Buffalo, New York 14202  
For the Defendant

**PROBATION:**

**ASHLEY S. McNEAL, USPO**

**COURT DEPUTY CLERK:**

**COLLEEN M. DEMMA**

**COURT REPORTER:**

**ANN MEISSNER SAWYER, FCRR, RPR, CRR**

Robert H. Jackson Courthouse  
2 Niagara Square  
Buffalo, New York 14202  
Ann\_Sawyer@nywd.uscourts.gov

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08:31AM 1 (Proceedings commenced at 8:31 a.m.)

08:31AM 2 **THE CLERK:** All rise. The United States District  
08:31AM 3 Court for the Western District of New York is now in session,  
08:31AM 4 the Honorable Lawrence J. Vilardo presiding.

08:31AM 5 **THE COURT:** Please be seated.

08:31AM 6 **THE CLERK:** 23-CR-141, United States of America  
08:31AM 7 versus Darin Butts, Jr.

08:31AM 8 Assistant United States Attorney Louis Testani  
08:31AM 9 appearing on behalf of the government.

08:31AM 10 Attorney Thomas Eoannou appearing with defendant.  
08:31AM 11 Defendant is present.

08:31AM 12 Also present is U.S. Probation Officer Ashley McNeal.

08:31AM 13 This is the date set for sentencing.

08:31AM 14 **THE COURT:** Good morning, everyone.

08:31AM 15 **ALL PARTIES:** Good morning, Your Honor.

08:31AM 16 **THE COURT:** So before we begin, my law clerk  
08:31AM 17 contacted you folks with respect to a couple conditions that  
08:31AM 18 I'm contemplating imposing, mental-health condition, based on  
08:32AM 19 the defendant's request for that and because I think it might  
08:32AM 20 make it easier for him to get mental-health treatment, less  
08:32AM 21 expensive perhaps.

08:32AM 22 **MR. EOANNOU:** Yeah.

08:32AM 23 **THE COURT:** And then also the orders of protection  
08:32AM 24 which I'll explain later. Any objection to those,  
08:32AM 25 Mr. Eoannou?

08:32AM 1 **MR. EOANNOU:** No, Your Honor.

08:32AM 2 **THE COURT:** You talked to your client about them?

08:32AM 3 **MR. EOANNOU:** I have.

08:32AM 4 **THE COURT:** Great. Terrific. Any problem from the  
08:32AM 5 government's perspective?

08:32AM 6 **MR. TESTANI:** No, Judge.

08:32AM 7 **THE COURT:** Okay. Mr. Butts is before the Court for  
08:32AM 8 sentencing on his previous plea of guilty to Count 9 of the  
08:32AM 9 indictment charging that he possessed at least 50 grams of  
08:32AM 10 methamphetamine with the intent to distribute it in violation  
08:32AM 11 of 21, United States Code, Section 841(a)(1) and (b)(1)(A).

08:32AM 12 We're going to begin with some questions that I have  
08:32AM 13 for the lawyers and for you, Mr. Butts, about the presentence  
08:32AM 14 investigation report. I then am going to make sure that I've  
08:32AM 15 receive and read all the sentencing-related submissions.  
08:32AM 16 After that, I plan to make some findings of fact and calculate  
08:32AM 17 the applicable sentencing guidelines range. And then before I  
08:32AM 18 state the sentence, I'm going to give counsel for both sides  
08:32AM 19 and you an opportunity to talk to me about anything anyone  
08:33AM 20 thinks is relevant to sentencing.

08:33AM 21 Are there any questions before we begin, from the  
08:33AM 22 government?

08:33AM 23 **MR. TESTANI:** No, Your Honor.

08:33AM 24 **THE COURT:** From the defense?

08:33AM 25 **MR. EOANNOU:** No, Your Honor.

08:33AM 1 **THE COURT:** Mr. Eoannou, have you had enough time to  
08:33AM 2 read the presentence report that was prepared and filed on  
08:33AM 3 December 17th, 2024, and to review it with your client?

08:33AM 4 **MR. EOANNOU:** I have.

08:33AM 5 **THE COURT:** Ms. McNeal, there were no revisions or  
08:33AM 6 updates to the presentence report that was filed on  
08:33AM 7 December 17th of last year; is that correct?

08:33AM 8 **USPO McNEAL:** That is correct, Your Honor.

08:33AM 9 **THE COURT:** Mr. Eoannou, did you explain the contents  
08:33AM 10 of the report to your client?

08:33AM 11 **MR. EOANNOU:** I did.

08:33AM 12 **THE COURT:** Do you have any concerns about his  
08:33AM 13 ability to understand it?

08:33AM 14 **MR. EOANNOU:** No.

08:33AM 15 **THE COURT:** Mr. Butts, did you receive a copy of the  
08:33AM 16 presentence report that was filed on December 17th, 2024?

08:33AM 17 **THE DEFENDANT:** I did, Your Honor.

08:33AM 18 **THE COURT:** Did your attorney explain it to you?

08:33AM 19 **THE DEFENDANT:** Yes.

08:33AM 20 **THE COURT:** Do you understand it?

08:33AM 21 **THE DEFENDANT:** Yes.

08:33AM 22 **THE COURT:** Do you need more time to review it or to  
08:33AM 23 talk to your lawyer about it?

08:33AM 24 **THE DEFENDANT:** No.

08:33AM 25 **THE COURT:** Do you have any questions about it?

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**THE DEFENDANT:** No.

**THE COURT:** Mr. Eoannou, do you want to contest or change anything in the report?

**MR. EOANNOU:** No.

**THE COURT:** And that includes both the facts and the guidelines calculation, correct?

**MR. EOANNOU:** Correct.

**THE COURT:** Mr. Butts, do you want to contest or change anything in the report?

**THE DEFENDANT:** No.

**THE COURT:** Mr. Testani, does the government want to contest or change anything in the report?

**MR. TESTANI:** No.

**THE COURT:** And again, that includes both the facts and the guideline calculation, correct?

**MR. TESTANI:** Yes, correct.

**THE COURT:** Mr. Eoannou, I've received and reviewed the defendant's statement with respect to sentencing factors, and his sentencing memorandum which attached his letter to the Court, and letters written on his behalf by:

Kemyatta Austin, his aunt, who helped raise him;

Peyton Butts, Paige Egroff, and Tanavia Saintkitts, his sisters;

Ben Drake, his basketball coach;

Millicent Leeper, his mother;

08:34AM 1 Darin Butts, Senior, his father;

08:34AM 2 Bishop Butts, his brother;

08:34AM 3 Raymond Rohena, a friend for more than 20 years; and

08:34AM 4 Nikita Benson, his girlfriend and the mother of his

08:34AM 5 youngest child; is that everything?

08:34AM 6 **MR. EOANNOU:** It is, Your Honor.

08:34AM 7 **THE COURT:** Is there anything else you'd like to

08:34AM 8 submit in writing?

08:34AM 9 **MR. EOANNOU:** No, Your Honor.

08:34AM 10 **THE COURT:** Mr. Testani, I've received the

08:34AM 11 government's statement with respect to sentencing factors; is

08:35AM 12 that everything?

08:35AM 13 **MR. TESTANI:** Yes, it is, Judge.

08:35AM 14 **THE COURT:** And is there anything else the government

08:35AM 15 would like to submit in writing?

08:35AM 16 **MR. TESTANI:** No.

08:35AM 17 **THE COURT:** Finally, consistent with Federal Rule of

08:35AM 18 Criminal Procedure 32(e)(3) as interpreted by the D.C. Circuit

08:35AM 19 in McIlwain, have both sides been given access to the sealed

08:35AM 20 sentencing recommendation that was filed on March 13th, 2025?

08:35AM 21 Mr. Eoannou?

08:35AM 22 **MR. EOANNOU:** Yes, Your Honor.

08:35AM 23 **THE COURT:** Mr. Testani?

08:35AM 24 **MR. TESTANI:** Yes, Judge.

08:35AM 25 **THE COURT:** I previously accepted the defendant's

plea of guilty to Count 9 of the indictment, possessing at least 50 grams of methamphetamine with the intent to distribute it. At that time, I deferred acceptance of the plea agreement. I now accept the terms and conditions of the plea agreement that was signed on August 21st, 2024, and the judgment and sentence will be consistent with it.

I note that in the plea agreement, the government did not agree to move to dismiss the open counts of the indictment against the defendant. That was an oversight?

**MR. TESTANI:** That was oversight. I noticed that about a minute ago.

**THE COURT:** Okay. So, the government is going to move to dismiss those counts?

**MR. TESTANI:** Yes.

**THE COURT:** So I therefore find that the charge to which the defendant pleaded guilty, that is Count 9, adequately reflects the seriousness of the actual offense behavior, and that accepting the agreement will not undermine the statutory purposes of sentencing or the guidelines.

All but one of the dismissed counts involved distribution of drugs, and all drugs and amounts have been taken into account in calculating the guidelines range.

And while the other dismissed count involves maintaining drug-involved premises, and that was not included in the guideline calculation, the government maintained that

1 it should have been included, and the probation office  
2 considered and rejected that position.

3 So for all those reasons, I find that the plea  
4 agreement is consistent with the statutory sentencing purposes  
5 and the sentencing guidelines.

6 The defendant and the government have both filed  
7 statements with respect to sentencing factors, and both have  
8 accepted the United States Probation and Pretrial Service  
9 Office's presentence report.

10 Based on the submissions and based on their  
11 representations today in court, there are no disputes about  
12 the facts in the report.

13 I've reviewed that report, as well. Based on my  
14 review, based on the written submissions, and based on the  
15 positions taken on the record today, I adopt the facts in the  
16 report as my findings of fact, and I incorporate them into the  
17 record.

18 I will now place the presentence investigation report  
19 that was filed on December 17th, 2024, in the record under  
20 seal. If an appeal is filed, counsel will be given access to  
21 the sealed report.

22 So let's now turn to the guidelines which I must  
23 calculate and consider as an important part of my  
24 determination of a sentence. And I apologize to everyone for  
25 the very technical nature of what's about to follow, but the



1 guidelines and the reasons behind the guidelines make this a  
2 necessary step in the process.

3 Based on the parties' submissions and based on their  
4 representations today in court, there are also no disputes  
5 regarding the recommendations in the presentence report as to  
6 the applicable sections of the Sentencing Commission's  
7 advisory guidelines, or the computation of those guidelines.

8 The presentence report calculates under the 2023  
9 version of the guidelines manual that Sections 2D1.1(a)(5) and  
10 2D1.1(c)(3) provide for a base offense level of 34, and that  
11 there are no adjustments for specific offense characteristics.

12 The presentence report then recommends that the  
13 offense level be decreased by two levels under 3E1.1(a),  
14 because the defendant has accepted responsibility for his  
15 conduct.

16 And in its statement with respect to sentencing  
17 factors, the government has moved for an additional one-level  
18 decrease of the offense level under 3E1.1(b). I grant that  
19 motion by the government.

20 So based on this, the presentence report calculates  
21 the total offense level to be 31. 34, minus 2, minus 1, is 31.

22 The report then calculates the defendant's criminal  
23 history category as Category III based on a criminal history  
24 score of VI.

25 Based on my factual findings, I agree with those

1 calculations of both the offense level and the criminal  
2 history category.

3 So with a total offense level of 31, and a criminal  
4 history category of III, the presentence report calculates the  
5 applicable guidelines range as a sentence of imprisonment of  
6 135 to 168 months, a fine range of \$30,000 to \$10 million, a  
7 period of supervised release of five years, and a mandatory  
8 special assessment of \$100 that I must impose, and I agree  
9 with those calculations as well.

10 Mr. Butts, under the Supreme Court's decision in  
11 Booker and the 2nd Circuit's decision in Crosby, I must  
12 consider the guidelines but I'm not bound by them.

13 I also must consider the factors in 18, United States  
14 Code, Section 3553(a). Those factors include the nature and  
15 the circumstances of the on your offense; your history and  
16 characteristics; the need for the sentence to reflect the  
17 seriousness of the offense, to promote respect for the law,  
18 and to provide a fair punishment to you; the need to deter  
19 others from committing crimes and to protect the public from  
20 your crimes; the need to provide you with educational or  
21 vocational training in an attempt to rehabilitate you; the  
22 types of sentences that are available; any policy statements  
23 issued by the Sentencing Commission; and sentences given to  
24 others who committed crimes similar to the one to which you  
25 pleaded guilty.

08:40AM 1 I plan to take all those factors into account when I  
08:40AM 2 impose sentence, but before I do that, I want to give the  
08:40AM 3 lawyers and you a chance to talk to me.

08:40AM 4 So, Mr. Testani, is there anything the government  
08:40AM 5 would like to say?

08:40AM 6 **MR. TESTANI:** Yes, Judge. I think there's probably  
08:40AM 7 factors on both sides of this one which, I guess, is probably  
08:40AM 8 the case always. But --

08:40AM 9 **THE COURT:** All the time.

08:40AM 10 **MR. TESTANI:** -- we're talking about significant  
08:40AM 11 quantities of methamphetamine in this case, as well as the  
08:40AM 12 trafficking of fentanyl. I don't think I need to kind of, you  
08:40AM 13 know, preach to you about the dangers that that causes and the  
08:41AM 14 effects that that causes.

08:41AM 15 **THE COURT:** You've heard me preach about it a number  
08:41AM 16 of times.

08:41AM 17 **MR. TESTANI:** But especially in the defendant's  
08:41AM 18 community, in the Jamestown community which, I've read the  
08:41AM 19 letters, it seems that he cares about, I mean, these drugs are  
08:41AM 20 wreaking havoc, ending lives, ruining lives. So this is  
08:41AM 21 serious conduct that needs to be accounted for.

08:41AM 22 Another thing I would note is, you know, the  
08:41AM 23 defendant was arrested in August of 2023. He was then  
08:41AM 24 released and then, you know, only a few months, a handful of  
08:41AM 25 months later, found in possession of another large quantity of

methamphetamine. I think that's also something that needs to be accounted for in the sentence.

With that being said, I mean, there's significant guidelines exposure here. I don't think, you know, we need to go to the high end. I think something around the lower end is probably sufficient and not greater than necessary, and that's what we would recommend.

**THE COURT:** Yeah. And the crime is so serious that there's a mandatory minimum of ten years, so the lowest sentence that I can possibly impose is 120 months, right?

**MR. TESTANI:** Correct.

**THE COURT:** There are no identifiable victims, correct?

**MR. TESTANI:** No victims.

**THE COURT:** Thank you. Mr. Eoannou?

**MR. EOANNOU:** Thank you, Your Honor.

Your Honor, I would like to point out that Darin's family's here -- Nikita and his aunt is here, his sister's here, his mother Millicent is here, his father's here -- in support of Darin.

Your Honor, we're asking for a 120-month sentence, ten years. We understand, and we understand the Court's position, of the seriousness of the offense of selling fentanyl selling methamphetamine. Thankfully here, there's no overdose, there's no guns, there's no violence, there's no

1 drug-trafficking organization.

2 Also, with a high conversion rate of methamphetamine  
3 and the guideline calculation, the minimum -- mandatory  
4 minimum of 120 months seems reasonable in light of the way  
5 they calculate it.

6 **THE COURT:** Let me stop you there, can you talk  
7 about -- that is something that -- that does concern me. So  
8 the guidelines are -- are driven by the conversion rate of the  
9 pure methamphetamine, right? And there have been articles, a  
10 number of articles written about the fact that that conversion  
11 rate may be a little bit unfair.

12 What do you have to say about that?

13 **MR. TESTANI:** To be honest, Judge, I think that's  
14 above my pay grade. I mean, if the sentencing -- the  
15 sentencing guidelines are what the sentencing guidelines are.

16 I'd also note that the first seizure in August was  
17 about 600 grams. That was tested for purity. The purity was  
18 accounted for.

19 The second seizure of approximately 200 grams, the  
20 purity was not tested, so it was calculated as a mixture and  
21 substance.

22 **THE COURT:** Go ahead.

23 **MR. EOANNOU:** It's funny, Your Honor, the distinction  
24 with the state system.

25 Yesterday I had a methamphetamine case from

1 Jamestown. It was approximately a little bit less than  
2 100 grams. The sentence was six months.

3 **THE COURT:** Yeah, I know.

4 **MR. EOANNOU:** It's a huge disparity between state and  
5 federal. But 120 months, Your Honor, is reasonable.

6 **THE COURT:** Tell me -- tell me -- let me tell you,  
7 under lots of circumstances, especially given the letters and  
8 the support that Mr. Butts has with his family, he's got a --  
9 what looks like a terrific family and great support, I'd agree  
10 with you, and there wouldn't be much question in my mind that  
11 120 months is enough.

12 Let me tell you what gives me pause here, and it's  
13 what Mr. Testani said about the fact that he was on release  
14 and he's still dealing methamphetamine.

15 **MR. EOANNOU:** You know, Judge, it's -- it's the life  
16 they know, and it's survival, and it's very sad. It's not the  
17 first time I've seen it. It's not the first time I've seen it  
18 in this courtroom. They're desperately trying to put food on  
19 the table, keep a roof over their heads, and they go back to  
20 the well one more time, and it's really not because they want  
21 to, it's out of desperation. It's not because they're going  
22 to the casino, it's not because he's buying a Mercedes, he's  
23 paying for the six kids.

24 And that's his nature, and it's wrong, and we  
25 acknowledge that.

08:45AM 1 But the flip side of it that even with both, I think  
08:45AM 2 120 months is too much but it's a mandatory minimum. He's  
08:45AM 3 never been to jail before, and he's got --

08:45AM 4 **THE COURT:** Six months. Six months is his longest  
08:45AM 5 sentence before this.

08:45AM 6 **MR. EOANNOU:** Correct. I'm sorry. Six months, yes.  
08:45AM 7 I've said many times, so I'm going to be brief, that  
08:45AM 8 when you have people in the system, their parents in the  
08:45AM 9 system, they have a significantly higher risk of being in the  
08:45AM 10 criminal justice system.

08:45AM 11 And parental absence, as well, I know we put some  
08:45AM 12 articles in our sentencing memorandum, increases the  
08:45AM 13 likelihood of criminal activity.

08:45AM 14 Well Darin, Your Honor, is the perfect example of  
08:45AM 15 that, and no one can speak to it better than I, because I have  
08:45AM 16 represented probably half the people in that audience. I have  
08:45AM 17 known his mother, who's the sweetest woman, Millicent, for  
08:45AM 18 over 20 years. I know there's references in the presentence  
08:45AM 19 report about her problems, and I was the lawyer on those.

08:46AM 20 And I can tell you, Judge, that this family was so  
08:46AM 21 dysfunctional 20 years ago when I started representing them,  
08:46AM 22 that it's just absolutely wonderful the way they've come  
08:46AM 23 together and now are a cohesive family unit that drove up here  
08:46AM 24 from Jamestown because they care about Darin.

08:46AM 25 And I can say this, too, Judge. It has nothing to do

08:46AM 1 with whatever sentence a judge gave them. It had to do with  
08:46AM 2 them coming together as a family and wanting to be there.  
08:46AM 3 It's getting their counseling, it's doing it on their own.  
08:46AM 4 Warehousing none of -- any of these people I don't think  
08:46AM 5 helped the situation, in fact I think it probably made it way  
08:46AM 6 worse because of when Millicent was in jail.

08:46AM 7 His mother says it very well. She says he was born  
08:46AM 8 into it, he was born into this stupid stuff, because I didn't  
08:46AM 9 know any better. I was already sentenced to 3 to 7 when I was  
08:47AM 10 pregnant with him. He always knew about it.

08:47AM 11 Pretty close.

08:47AM 12 Kemyatta, who's here today, his aunt, she came all  
08:47AM 13 the way up. As you know, she helped bring him up when  
08:47AM 14 Millicent was in jail. She sort of describes why he does it.

08:47AM 15 She states that Darin's mom didn't get out of jail  
08:47AM 16 until he was 5, she maxed out. Kemyatta took care of Darin.  
08:47AM 17 And Darin's mother and father, back then, didn't support him  
08:47AM 18 at all.

08:47AM 19 And there in her letter, she asks the question, and I  
08:47AM 20 think it's great: All this boy had were takers. When these  
08:47AM 21 takers are your mom and dad, and he's paying the rent, what do  
08:47AM 22 you do?

08:47AM 23 Which maybe answers your question from before why he  
08:47AM 24 went back to selling.

08:47AM 25 What do you do when you're the only one to take care



08:47AM 1 of everyone? Your brother, your sister, your parents, your  
08:47AM 2 kids?

08:47AM 3 She says even though he wasn't raised in a church,  
08:47AM 4 because Kemyatta is very religious, she said he has his mom in  
08:47AM 5 him, he has his daddy in him, and I can't negate what he saw  
08:48AM 6 at home.

08:48AM 7 Given all those factors, living in Jamestown where  
08:48AM 8 drugs are rampant, methamphetamine is rampant, and that's what  
08:48AM 9 people do, unfortunately he had no guidance, no lifeline, and  
08:48AM 10 that's what he did.

08:48AM 11 But when you think about Darin, she also tells a  
08:48AM 12 wonderful story about he had one winter coat, and he was going  
08:48AM 13 down the street and there was somebody who was freezing  
08:48AM 14 without a coat. Darin came home without the winter coat that  
08:48AM 15 she could barely afford to buy him. And she was very proud of  
08:48AM 16 him that he had given a homeless person his coat.

08:48AM 17 And I do like it, and I understand it, that Darin  
08:48AM 18 told Kemyatta that I can finally get a good night sleep now  
08:48AM 19 that I'm arrested. He's tired of looking over his shoulder.  
08:48AM 20 Tired from all that pressure.

08:48AM 21 He knows he has no one to blame but himself, but he  
08:48AM 22 did it to take care of other people. He knows that's wrong,  
08:48AM 23 but that's his rationale.

08:48AM 24 How does he get into it? He gets into it with his  
08:48AM 25 half-brother Rashan. He looks up to him. Rashan's selling

08:48AM 1 marijuana. He starts -- ultimately he starts selling crack  
08:49AM 2 cocaine.

08:49AM 3 The sad thing about it is, if Darin was born a little  
08:49AM 4 different, he would not be standing here, he'd be coaching on  
08:49AM 5 a basketball court. And that's the sadness, and that's why I  
08:49AM 6 think 120 months is more than enough.

08:49AM 7 He's the father of six young children, the oldest is  
08:49AM 8 11, three of them are eight, one is two months old here today,  
08:49AM 9 and they need a father. He didn't have a father, and he's  
08:49AM 10 here. And too many times in my life, and you've seen it more  
08:49AM 11 than I, they don't have fathers, they don't have mothers, they  
08:49AM 12 miss kindergarten, they miss graduation, they miss everything,  
08:49AM 13 they miss all the sporting events. The kids end up in the  
08:49AM 14 same place.

08:49AM 15 In Darin's case, it's a little different because his  
08:49AM 16 significant another, Nikita Benson, is wonderful. She's been  
08:49AM 17 by his side all the way. And there's some structure there at  
08:50AM 18 the end of the day and some family unit.

08:50AM 19 Oddly enough, Judge, he kept his drug dealing from  
08:50AM 20 her. He did it out of his car, and he pretended that he was  
08:50AM 21 working, and he tried to keep his family from that.

08:50AM 22 I'm asking the Court for a 120-month sentence. I do  
08:50AM 23 not understand the rationale, Judge, I never have, I never  
08:50AM 24 will. What do you need 135 months for? What does 15 more  
08:50AM 25 months do? Ten years is a hell of a long time. 15 more

1 months of rotting in a jail doesn't help this family, doesn't  
2 help him, and doesn't help him pull it together at the end.  
3 120 is more than enough time.

4 We can't ignore the fact that drug addiction played a  
5 role here. He was a secret addict, but enormously addicted to  
6 I think five Percocets a day, and Ecstasy, Judge, for a very  
7 long time. And, again, he tried to keep that from his family.  
8 But one of the reasons he sold drugs was because of his  
9 terrible habit.

10 He does have a work ethic, too. As you see from the  
11 presentence report, he's always tried to work, whether it to  
12 be have a garbage truck, even temporary job one after another  
13 in factories. So he can work. And I think if he had a good  
14 job, he probably wouldn't be here either.

15 When -- he says when he's released, he wants to go  
16 back to coaching. I believe it.

17 Yesterday when I was sentencing that young man in  
18 state court, he said to me, how's Darin doing? I know you're  
19 his lawyer. He was one heck of a basketball player. He's in  
20 the Hall of Fame in Jamestown High School.

21 He was running five traveling teams, Judge, before he  
22 was incarcerated, and the kids love him.

23 He's very embarrassed. He's not somebody from the  
24 hood who doesn't give a darn what people think. He was  
25 somebody in the community, he was very proud of that, very

1 proud of being a basketball coach. And he really, in my mind,  
2 wants to get the respect of the community back, and his  
3 family.

4 He's 31 years old. He's not like people we've had in  
5 here before where you say, okay, I've had him, he's been  
6 sentenced for drug cases for long period of time, for three  
7 other times here. He's 35 years old. There's no fixing this  
8 defendant.

9 That's not him. This is his first time, and ten  
10 years is gonna be very significant.

11 He'll be close to 40 when he gets out. He'll have  
12 years of supervised release. By then, Judge, I'm sure he's  
13 aged out of crime, especially after doing ten years.

14 At the end of the day, Judge, you also have to look  
15 at the fact that he was -- why he did it. I mean, he doesn't  
16 have a fancy car. He doesn't have anything fancy. I've seen  
17 his house, it's a very, very small house.

18 And we understand the risks, however, of selling  
19 fentanyl, but we also think ten years is a heck of a long  
20 time. And he accepts responsibility for this. And he, again,  
21 he wants to put this life behind him.

22 Judge, I think ideally a sentence of less than ten  
23 years would be the right sentence. I've been doing these  
24 cases for 42 years. It -- I've never seen it work. I've  
25 rarely seen it work.

1           The better alternative is you need some mental health  
2     counseling, you need some drug counseling. You need to be  
3     punished but not for a decade. And maybe instead of all that  
4     money that we spend warehousing you at 30,000 or whatever it  
5     is a year, get a job. Give him -- give him vocational  
6     training so they get a job.

7           That combination is much, much better than saying,  
8     you know what? A decade.

9           We don't do the time. But a decade is a long, long  
10    time. It's a lot of Christmases that they're not there with  
11    their kids.

12          So, I would say to the Court that in light of  
13    everything, yes, it's serious.

14          And there's a lot of good in this young man. This  
15    family is tremendous, in my mind, only because I've known them  
16    for over 20 years. To come together like they have, because I  
17    haven't seen that in the past.

18          120 years -- months is more than necessary. And I  
19    personally don't think it is a fair sentence, but it is as low  
20    as this Court can go, and I would ask the Court to consider  
21    it.

22           **THE COURT:** Thank you.

23           **MR. EOANNOU:** Thank you.

24           **THE COURT:** Mr. Butts, anything you would like to  
25    say?

08:54AM 1           **THE DEFENDANT:** I'm a little nervous, I wish I would  
08:54AM 2 have spoke first, but yeah.

08:54AM 3           **THE COURT:** No, that's okay. And I know you're  
08:54AM 4 nervous. Pretend it's just me and you.

08:54AM 5           **THE DEFENDANT:** Yep.

08:54AM 6           **THE COURT:** Pretend it's me and you in a room, take a  
08:54AM 7 deep breath, and tell me what you want to say.

08:54AM 8           **THE DEFENDANT:** It took me ten times to write this  
08:54AM 9 yesterday. I didn't know what I was gonna say, and I just had  
08:55AM 10 to keep rewriting and rewriting and rewriting. But I came up  
08:55AM 11 with it.

08:55AM 12           So I wrote: I have wrote this letter to express my  
08:55AM 13 deepest apology for my actions and the harm that they have  
08:55AM 14 caused. I fully acknowledge that what I did was wrong, and I  
08:55AM 15 full -- and I take full responsibility for my involvement in  
08:55AM 16 selling drugs.

08:55AM 17           I understand that my actions not only broke the law,  
08:55AM 18 but also hurt the community, my family, and those I care  
08:55AM 19 about. I am deeply sorry for betraying the trust of the ones  
08:55AM 20 I love, and for putting my family through the emotional and  
08:55AM 21 financial strain caused by my choices.

08:55AM 22           To my family: I want you to know that I regret the  
08:55AM 23 pain that I have caused, and I promise that I am committed to  
08:55AM 24 making changes in my life. I will do whatever it takes to  
08:55AM 25 earn back your trust and make amends for my mistakes.

1 I would also like to extend my sincere gratitude to  
2 my attorney, Mr. Eoannou. I recognize that my actions have  
3 made his job difficult, and I deeply appreciate his guidance  
4 and support throughout, that I had the best possible  
5 representation, and for that I am truly grateful.

6 I want to is sure the Court and my family and my  
7 lawyer that I have learned a valuable lesson from this  
8 experience. I am dedicated to turning my life around and  
9 contributing positively to society moving forward.

10 I am committed to seeking help and rehabilitation so  
11 I never repeat the mistakes I've made.

12 I respectfully ask for your understanding and  
13 leniency during sentencing. I am truly remorseful, and I will  
14 do everything in my power to make amends for the harm that I  
15 have caused.

16 Thank you for allowing me to speak. I sincerely  
17 apologize for my actions and the consequences they may have  
18 brought.

19 **THE COURT:** Thank you.

20 Ms. McNeal, am I correct that six months is the  
21 longest time that he's done before?

22 **USPO McNEAL:** Yes, Your Honor.

23 **THE COURT:** Okay. Does either counsel know of any  
24 reason why sentence should not now be imposed?

25 **MR. TESTANI:** No.

08:56AM 1 **MR. EOANNOU:** No, Your Honor.

08:56AM 2 **THE COURT:** Pursuant to the Sentencing Reform Act of  
08:57AM 3 1984 and the 2023 version of the guidelines, it's the judgment  
08:57AM 4 of the Court that the defendant, Darin L. Butts, Jr., is  
08:57AM 5 hereby sentenced to 120 months of imprisonment. The cost of  
08:57AM 6 incarceration fee is waived. Upon release, the defendant  
08:57AM 7 shall be placed on supervised release for a term of five  
08:57AM 8 years.

08:57AM 9 After his release, the following conditions shall  
08:57AM 10 apply. Within 72 hours of release from custody of the Bureau  
08:57AM 11 of Prisons, the defendant shall report in person to the  
08:57AM 12 probation office in the district where he is released unless  
08:57AM 13 his probation officer instructs him differently.

08:57AM 14 The defendant shall comply with the standard  
08:57AM 15 conditions of supervised release adopted by the Court.

08:57AM 16 The defendant shall not commit any crimes under  
08:57AM 17 federal, state, or local law.

08:57AM 18 The defendant shall not possess a firearm,  
08:57AM 19 ammunition, or any other dangerous device.

08:57AM 20 The defendant shall not possess a controlled  
08:57AM 21 substance except as prescribed by a physician.

08:57AM 22 The defendant shall cooperate in the collection of a  
08:57AM 23 DNA sample as required by the Justice for All Act of 2004.

08:57AM 24 The defendant shall participate in a program for  
08:58AM 25 substance abuse including substance abuse testing such as



08:58AM 1 urinalysis and other testing, and shall undergo a drug/alcohol  
08:58AM 2 evaluation and treatment if substance is abuse is indicated by  
08:58AM 3 the testing.

08:58AM 4 The probation officer will supervise the details of  
08:58AM 5 any testing and treatment, including the selection of a  
08:58AM 6 treatment provider and schedule.

08:58AM 7 If inpatient treatment is recommended, however, it  
08:58AM 8 must be approved by the Court unless the defendant consents.

08:58AM 9 The defendant is not to leave treatment until  
08:58AM 10 completion or as ordered by the Court. While in treatment and  
08:58AM 11 after discharge from treatment, the defendant is to abstain  
08:58AM 12 from using alcohol.

08:58AM 13 The defendant is required to contribute to the cost  
08:58AM 14 of services rendered.

08:58AM 15 The defendant shall notify the probation officer of  
08:58AM 16 any opiate-based pain medication prescribed for him before the  
08:58AM 17 prescription is filled by a pharmacist.

08:58AM 18 Because this offense occurred after September 13,  
08:58AM 19 1994, drug testing is required by the 1994 Crime Control Act.

08:58AM 20 I'm also imposing these two conditions, and in  
08:58AM 21 particular the parts of these conditions that are in addition  
08:59AM 22 to testing, because of the defendant's use and abuse of  
08:59AM 23 alcohol, Percocet, Ecstasy, and other substances, and I  
08:59AM 24 believe that the condition serves -- the conditions serve the  
08:59AM 25 statutory sentencing purposes of deterrence, rehabilitation,

1 and public protection.

2 Defendant shall participate in a mental-health  
3 treatment program, including a mental-health evaluation and  
4 any treatment recommended. The probation officer will  
5 supervise the details of any testing and treatment, including  
6 the selection of a provider and schedule.

7 If inpatient treatment is recommended, however, it  
8 must be approved by the Court unless the defendant consents.  
9 The defendant is not to leave treatment until completion or as  
10 ordered by the Court.

11 While in treatment or taking psychotropic medication,  
12 the defendant shall abstain from using alcohol.

13 The defendant is required to contribute to the cost  
14 of services rendered.

15 I'm imposing this condition because even though  
16 there's no history of mental health issues, the defendant  
17 requested it. And there's also a letter from his girlfriend,  
18 Nikita Benson, that talks about the stress that he's under,  
19 and the mental health that she sees. And so I think that this  
20 condition is an important condition to impose, and I think it  
21 serves the statutory sentencing purpose of rehabilitation.

22 The defendant shall submit to a search of his person,  
23 property, vehicle, place of residence, or any other property  
24 under his control based on reasonable suspicion, and shall  
25 permit confiscation of any evidence or contraband discovered.

1 I'm imposing this condition because the offense of  
2 conviction involved drugs which are easily hidden from law  
3 enforcement, and I believe that this condition serves the  
4 statutory sentencing purposes of deterrence and public  
5 protection.

6 The defendant shall comply with all orders of  
7 protection, and the defendant shall notify the probation  
8 officer of any orders of protection.

9 I'm imposing this condition because of the  
10 defendant's history of domestic violence on at least one  
11 occasion, and a prior order of protection that expired just a  
12 couple years ago. And I believe that the condition,  
13 therefore, serves -- the conditions therefore serve the  
14 statutory sentencing purposes of public protection.

15 The defendant shall pay to the United States a  
16 mandatory special assessment of \$100, that's due immediately,  
17 payment to be made to the Clerk, United States District Court,  
18 Attention Finance, United States Courthouse, 2 Niagara Square,  
19 Buffalo, New York 14202.

20 If the special assessment is not paid when he's  
21 incarcerated, payment shall begin under the Bureau of Prisons  
22 Inmate Financial Responsibility Program.

23 I'm going to recommend that the defendant be placed  
24 in the RDAP program. I think that he's a prime candidate for  
25 it. That may allow him to knock some time off his sentence,

1 and I think it will also go a long way toward dealing with the  
2 drug issues he has, the substance-abuse issues that he has, so  
3 I'm going to recommend that.

4 I'm also going to recommend that he be housed in a  
5 facility as close to Western New York as possible so that he  
6 can maintain contact with his family members. He's got a lot  
7 of people who support him in the community, both in his family  
8 and folks who know him from the Jamestown community, and I  
9 think it's in his best interest and in society's best interest  
10 to maintain those relationships.

11 So in determining the sentence, I've reviewed the  
12 circumstances of the case and the plea. I began my analysis  
13 with the guidelines, as I must. I've considered the arguments  
14 raised by both sides as to what the appropriate sentence  
15 should be. And most important, I've considered the factors in  
16 Title 18, United States Code, Section 3553(a), which I stated  
17 earlier and I won't repeat.

18 I'm not imposing a fine, I'm not imposing costs of  
19 imprisonment or costs of supervised release because I don't  
20 believe you have the financial ability to make those payments,  
21 because I want to set you up to succeed once you get out, and  
22 I think additional financial pressures are going to be  
23 counterproductive.

24 So I've chosen the sentence that I've chosen for a  
25 few reasons.

2           You know, methamphetamine and fentanyl are among the  
3 worst. Fentanyl is the worst. Fentanyl is killing people,  
4 and it's destroying families. So if you call yourself a  
5 family man, you can't be involved with fentanyl. Simply, it's  
6 destroying families. It's tearing people apart.

7                   And you've got a criminal history category of III on  
8   a scale of I to VI at a relatively young age.

9                   So, I think that to recognize the nature and  
10 circumstances and seriousness of the offense, to take into  
11 account your criminal history, and your other history and  
12 characteristics, to promote respect for the law, to deter  
13 others, to protect the public, to impose a fair punishment, a  
14 lock term of imprisonment is necessary. And ten years, as  
15 your lawyer says, is an awfully long time especially for  
16 someone who's done no more than six months before this.

17 And I gave serious thought to imposing a little bit  
18 more than 120 months because of your violation of your release  
19 when you were out, because I think that that tells me maybe  
20 you didn't get it then, and maybe you still don't get it now.

21 But as your lawyer says, ten years is a long time,  
22 and if there weren't the mandatory minimum, maybe I'd impose  
23 eight years, maybe I'd impose seven and a half years, and then  
24 tacking a little bit more onto it would make sense under those  
25 circumstances.

09:04AM 1 Ten years, I think, is long enough under these  
09:04AM 2 circumstances here, especially for someone who, as I said, has  
09:04AM 3 not done significant time in the past.

09:04AM 4 The letters paint you as a really good person, and I  
09:04AM 5 think you are. I think inside, you are a really good person.

09:04AM 6 But I want you to understand that what you did is a  
09:04AM 7 really bad thing. Good people do bad things sometimes. And  
09:04AM 8 your life is defined not by the worst thing you ever did, your  
09:04AM 9 life is defined by your entire life, right? Some good, and  
09:05AM 10 some bad. We all do. And you've done a lot of good things.

09:05AM 11 And the fact that you're motivated -- your lawyer  
09:05AM 12 said, you know, part of the reason that you -- you're doing  
09:05AM 13 this is because you're a giver, I've got that word written  
09:05AM 14 down here in my notes, he's a giver -- doesn't justify it. It  
09:05AM 15 doesn't make it right.

09:05AM 16 You want to give your kids and the kids on your  
09:05AM 17 basketball teams stuff. They don't need stuff, they need you.

09:05AM 18 They don't need sneakers, they don't need coats, they  
09:05AM 19 don't need toys, they need you.

09:05AM 20 And they need -- and they need you there in their  
09:05AM 21 lives, and they need you as a role model to set an example.

09:05AM 22 There's no crying over spilled milk, but the past is  
09:05AM 23 the past. But you had an opportunity when you came out of  
09:05AM 24 high school to be an incredible role model for these kids.

09:06AM 25 You were a sports star.

1 I remember when I was in high school. I was -- I'm  
2 the worst athlete in the world. And I did pretty well  
3 academically, but I would have traded it all to be an athlete  
4 because I love sports. I love sports, and looked up to the  
5 athletes in the class.

6 And you were one of those athletes. You had an  
7 opportunity to do that.

8 But you want to know something? You still do.  
9 Because you're still that legend down there. You're still  
10 that great basketball player down there.

11 And now you've got something more than that. Now  
12 you've got some street cred, because you did really bad things  
13 and you're gonna do a long time in prison for it.

14 So you come out of prison, and you're gonna have the  
15 ability to be a hero in your community. You're going to have  
16 the ability to go back to be Darin Butts the basketball star,  
17 and Darin Butts the guy who's in the community teaching these  
18 kids what to do and what not to do. Teaching them how to play  
19 basketball, and teaching them not use drugs. Not to go down  
20 the route that you went down, and waste 20 years of their  
21 life. Right?

22 **THE DEFENDANT:** Yes.

23 **THE COURT:** Waste 20 years of their life.

24 And you're gonna have -- and that's an incredible, an  
25 incredible gift, an incredible opportunity for you that most

09:07AM 1 defendants don't have who sit there because they're not sports  
09:07AM 2 stars; that Mr. Testani and Mr. Eoannou and I don't have  
09:07AM 3 because we don't have street cred that you're gonna have; but  
09:07AM 4 that you're gonna have. You're gonna be able to do that.

09:07AM 5 So I hope that you understand that trying to -- that  
09:07AM 6 selling drugs in order to give people things in order to, you  
09:07AM 7 know, give the kids on the team the stuff that they need, give  
09:07AM 8 your kids what they need. No, no, no. They don't need that  
09:07AM 9 stuff.

09:07AM 10 You're gonna be out of their lives now. They would  
09:07AM 11 trade all that stuff to have you in their lives for the next  
09:07AM 12 eight years, nine years, whatever it's gonna be, that you're  
09:07AM 13 gonna be on the inside.

09:07AM 14 They need you, they don't need the stuff. They don't  
09:07AM 15 need the stuff.

09:07AM 16 And as I said, you need to understand that family  
09:08AM 17 men, and men who want to give back to their community, don't  
09:08AM 18 sell this poison in the community that's destroying families  
09:08AM 19 and that's killing people.

09:08AM 20 Think about whether you would want someone selling  
09:08AM 21 fentanyl to one of your kids, right?

09:08AM 22 It's a no-brainer, right?

09:08AM 23 **THE DEFENDANT:** Right.

09:08AM 24 **THE COURT:** You'd probably want to beat the guy up.  
09:08AM 25 I would.



1 But that's what you did. You know? You're selling  
2 fentanyl to somebody else's kid, and to somebody else's  
3 father. And that's, as I say, it's a bad thing.

4 So, you're a very good person. Those letters don't  
5 give me any doubt that you are a very, very good person, your  
6 heart's in the right place, but you went about doing what you  
7 did in a very misguided way.

8 So, I think that ten years is long enough. I take  
9 very seriously my responsibility to impose a sentence that is  
10 sufficient but not greater than necessary. And I think that  
11 this sentence under the circumstances, because it's the  
12 mandatory minimum, is.

13 But I can tell you that even if there weren't a  
14 mandatory minimum, if I didn't have to sentence you to any  
15 time, you'd be getting a significant period in prison because  
16 what you did is a very serious offense. And -- and what you  
17 did, did do some very harmful things to the community.

18 That's behind us. It's the past. We can't do  
19 anything about it. From this moment, forward, lead a life  
20 that makes you a hero in that community.

21 I think that's what you want to be. I think that  
22 that's what's inside you and what drive -- is driving you,  
23 that you want to give to people who don't have. Do it in the  
24 way that is the best way you can do it, and that is teaching  
25 these kids not to follow the path that you were on. Teach

09:09AM 1 them how to play basketball, too, but teach them not to follow  
09:09AM 2 the path that you were on.

09:09AM 3 And I've imposed that five-year term of supervised  
09:09AM 4 release with special conditions, that's to help you return to  
09:10AM 5 society after your incarceration, it's also going to allow the  
09:10AM 6 probation office to monitor your activity to ensure that you  
09:10AM 7 don't engage in illegal activity in the future.

09:10AM 8 And let me tell you something. The guidelines say  
09:10AM 9 that because I am now varying downward from the guidelines,  
09:10AM 10 I'm giving you a sentence below the guidelines, that if you  
09:10AM 11 violate when you're on supervised release, I can consider  
09:10AM 12 giving a sentence above the guidelines, and I would in a case  
09:10AM 13 like this. You're getting a break -- it doesn't, maybe  
09:10AM 14 doesn't seem like a break, ten years is a long time -- but  
09:10AM 15 you're getting a break today. That break is going to come  
09:10AM 16 back and bite you if you go back and do this again.

09:10AM 17 And as I said, the only thing that concerns me, 120  
09:10AM 18 months would have been no-brainer for me under most  
09:10AM 19 circumstances. The only thing that concerned me, the only  
09:10AM 20 reason I thought about giving a little bit more time than  
09:10AM 21 that, was the fact you violated while you were on release.  
09:10AM 22 And I'm telling you now, if you violate when you're on release  
09:10AM 23 later on, ten years from now, if I'm still on this earth and  
09:10AM 24 still in this chair, I will take that into account and will  
09:11AM 25 sentence you more harshly because I'm varying downward now.

09:11AM 1 So based on the guidelines, based on the positions of  
09:11AM 2 the parties, and based on my review of all other facts and  
09:11AM 3 circumstances presented to me, I find that the sentence I've  
09:11AM 4 imposed is sufficient but not greater than necessary to comply  
09:11AM 5 with the purposes of sentencing in 18, United States Code,  
09:11AM 6 Section 3553(a).

09:11AM 7 And pursuant to Rule 32(j)(1)(B) of the Federal Rules  
09:11AM 8 of Criminal Procedure, I now advise you of your right to  
09:11AM 9 appeal.

09:11AM 10 You have a statutory right to appeal your sentence  
09:11AM 11 under certain circumstances, particularly if you think the  
09:11AM 12 sentence is contrary to law. A defendant may waive those  
09:11AM 13 rights as part of a plea agreement.

09:11AM 14 And as I think you recognize, Mr. Butts, you entered  
09:11AM 15 into a plea agreement in which you waived some of your rights  
09:11AM 16 to appeal, specifically you waived your right to appeal a  
09:11AM 17 sentence that falls within or is less than the guidelines  
09:11AM 18 range of imprisonment.

09:11AM 19 These waivers are generally enforceable. If you  
09:11AM 20 think the waiver is unenforceable for some reason, you can  
09:12AM 21 present that theory to the appellate court.

09:12AM 22 If you want to appeal -- if you want to attempt to  
09:12AM 23 appeal some issue that you think survives your waiver, you  
09:12AM 24 must file a notice of appeal within 14 days.

09:12AM 25 If you're unable to pay for the cost of an appeal,

1 you may apply for leave to appeal in forma pauperis, that is  
2 leave to appeal without paying costs.

3 And you have the right to be represented by counsel  
4 on any appeal. If you can't afford counsel, you have the  
5 right to have counsel appointed to represent you free of  
6 charge.

7 The forfeiture is made a part of the sentence and  
8 judgment. Do I need to issue a final order, Mr. Testani?

9 **MR. TESTANI:** If you do, Judge, we'll provide one.

10 **THE COURT:** Terrific. You have a motion.

11 **MR. TESTANI:** Yes. The government moves to dismiss  
12 the open counts in the indictment against the defendant.

13 **THE COURT:** So that's 1 through 8 and 10; is that  
14 correct?

15 **MR. TESTANI:** Correct.

16 **THE COURT:** Okay. That motion is granted.

17 Anything further from the government?

18 **MR. TESTANI:** Nothing further, thank you.

19 **THE COURT:** Anything further from the defense?

20 **MR. EOANNOU:** No, Your Honor.

21 **THE COURT:** The statement of reasons shall be  
22 included in the judgement, and shall be provided to the  
23 probation office, to the Sentencing Commission and to the  
24 Bureau of Prisons.

25 A complete copy of the presentence report shall be

provided to the probation office, to the Sentencing Commission, and to the Bureau of Prisons.

Any other copies of the report and related material shall remain confidential.

If an appeal is taken, counsel on appeal shall have access to the report.

And a judgment of the conviction should be prepared promptly on the form prescribed for judgments, including sentences under the Sentencing Reform Act.

Good luck to you, Mr. Butts. You can talk the talk. I mean, what you wrote for me was beautiful. You're obviously a very bright guy. You're obviously a very talented young man, and you obviously have a bright future ahead of you. Make the most of it. You know? Be a hero in the community when you get out. You've got an opportunity that not many people have because, as I say, you've got the fact that you were a back legend, plus the fact that you're gonna have a significant amount of time in prison. Those two things together are going to make you someone that people are going to listen to, and you're going to have the unique ability to change the cycle that's going on in our cities today with kids growing up without parents, without role models, going to jail like you. And you're going to be able to help change that in a pretty significant way, and I hope you do.

The defendant is remanded to the custody of the

United States Marshals.

Thank you, everyone.

**MR. EOANNOU:** Thank you, Judge.

**THE DEFENDANT:** Thank you.

(Proceedings concluded at 9:14 a.m.)

\* \* \*

**CERTIFICATE OF REPORTER**

In accordance with 28, U.S.C., 753(b), I  
certify that these original notes are a true and correct  
record of proceedings in the United States District Court for  
the Western District of New York on March 20, 2025.

s/ Ann M. Sawyer

Ann M. Sawyer, FCRR, RPR, CRR  
Official Court Reporter  
U.S.D.C., W.D.N.Y.