

23-CR-141

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

UNITED STATES OF AMERICA

V.

DARIN BUTTS, JR.

SENTENCING MEMORANDUM

Respectfully Submitted,

/s/ Thomas J. Eoannou, Esq.
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TO: HONORABLE LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE

LOUIS TESTANI, AUSA
ASSISTANT UNITED STATES ATTORNEY

INTRODUCTION

Darin Butts has pleaded guilty to Count 9 of the 10-count Indictment: Possession with Intent to Distribute 50 Grams or More of Methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1) and 841(b)(1)(A). This offense, a Class A felony, carries a statutory penalty of 10 years to life imprisonment and a fine of up to \$10,000,000.

Pursuant to the plea agreement, the parties agree that Mr. Butts has a Criminal History Category of III. The calculated sentencing range depends on the application of a two-level increase under USSG §2D1.1(b)(12). If applied, the total offense level would be 33, resulting in a guideline sentencing range of 168 to 210 months of imprisonment, a fine between \$35,000 and \$10,000,000, and a supervised release term of five years. If not applied, the total offense level would be 31, yielding a sentencing range of 135 to 168 months, a fine between \$30,000 and \$10,000,000, and a supervised release term of five years.

The government reserves the right to recommend a sentence outside of the applicable Guidelines range, however, because Mr. Butts is subject to a statutory mandatory minimum sentence of 10 years. By the date of sentencing—March 20, 2025—Mr. Butts will have been in custody for 10 months and 27 days, as of December 17, 2024.

This memorandum is submitted to assist the Court in determining a sentence that is sufficient but not greater than necessary. Darin requests a sentence of 120 months.

EARLY LIFE

Darin Lamark Butts, Jr. was born on June 21, 1993, in Jamestown, New York, and has been a lifelong resident of the Southern Tier in Western New York. He grew up in a household marked by instability, substance abuse, and frequent hardship.

Darin's parents, Darin Butts, Sr., and Millicent Leeper, both 56 years old, were significant yet inconsistent figures in his life. His father, who resides in Jamestown and works as a housekeeper, fathered many children and was engaged in Darin's life but never the primary caretaker. His mother, also living in Jamestown, struggled with a long history of substance abuse, including crack, alcohol, and marijuana.

Darin's childhood was shaped by his parents' absence and instability. His mother's addiction often took precedence over her children, resulting in emotional neglect and a chaotic household. From a young age, Darin understood his mother was using drugs, a reality confirmed by her criminal history. She was frequently in and out of his life—either serving time or elsewhere using drugs. Darin's mother's criminality is confirmed on page 17 of the Presentencing Investigation Report.

Darin recalls moments when his mother would try to kick him and his siblings out of the house for no apparent reason, even while they were still in elementary school. He recalls her absence during pivotal milestones, such as his basketball games, high school graduation, and other formative events. He stated, "I just wish my mother could have shown up for me, even if she was using." Both of his parents left him feeling uncared for and deprioritized.

As the eldest sibling, Darin assumed the role of protector and caretaker for his three younger siblings: Peyton (age 27), Darien (age 20), and Bishop (age 18). He sought to shield them from the pain of rejection he had experienced from their parents. Despite his own struggles, Darin worked to provide a sense of support and family to his siblings. He developed an especially close bond with Darien, whom he often walked to school and cared for daily. Through these responsibilities, Darin discovered his love for caring for others. Having experienced a lack of support himself, he became determined to be present for his siblings in both small moments, like cheering at basketball games, and big ones, like celebrating graduations.

Darin's maternal grandmother, the late Fannell Leeper, was the most consistent and stable figure in his life. His grandmother was transparent about his mother's struggles with addiction. He described her as "My very own god on Earth. She taught me the realities of the world and how to make the world better." Fannell was one of the few adults in Darin's life who provided him with unconditional care and support. Her love and guidance were a source of comfort for Darin until her passing from cancer in 2023. Page 17 of the Presentencing Investigation Report describes their relationship.

Darin also found support from his maternal aunt, Kemyatta Austin, who played a crucial role in helping him navigate the challenges of his childhood and adolescence.

One bright spot in Darin's life has always been his love for basketball. He cherished the camaraderie it fostered and how the game could shift his focus, providing a positive and

enjoyable outlet. Darin was a gifted player, in large part due to his deep understanding of how to bring a team together and function as a cohesive unit. His talent earned him several honors during high school, including having his jersey number retired and being inducted into the Jamestown High School Hall of Fame. This passion for the game began at a young age and continues to this day. Some of his proudest moments stem from the relationships he built through basketball, which gave him a sense of belonging and a community he could care for.

Darin's upbringing and life circumstances placed him at a heightened risk of becoming entangled in the criminal justice system. Research shows that individuals lacking parental support are more likely to engage in negative relationships and substance abuse. A study in BMC Public Health highlights that low parental involvement strongly correlates with substance use and long-term struggles, including criminal behavior.

Children with incarcerated parents, like Darin, are also at significantly higher risk of entering the justice system. The National Institute of Justice has documented this cycle of intergenerational incarceration, emphasizing the impact of familial instability on future outcomes. Similarly, the Journal of the American Academy of Psychiatry and the Law notes that parental absence increases the likelihood of at-risk behaviors, including criminal activity.

While Darin accepts responsibility for his actions, it is important to recognize the systemic and personal challenges of his upbringing that predisposed him to this outcome.

DRUG USE AND MENTAL HEALTH STRUGGLES

When Darin was 16, he began spending time with Rahem Butts, one of his half-brothers on his father's side. Darin and Rahem bonded over their shared experience of having unstable and largely absent parents.

Unlike Darin's parents, Rahem and his friends provided him with a sense of care and belonging. They attended his basketball games, encouraged him, and made him feel valued. For Darin, who was accustomed to neglect and emotional isolation, this newfound support was deeply meaningful.

Darin started selling marijuana—not for profit but as a way to spend more time with Rahem, who was a known marijuana dealer. He admired Rahem as one of the few older male figures in his life, projecting ideals of manhood onto him.

After graduating from Jamestown High School in 2011, Darin briefly attended Alfred State College, where he studied criminal justice. However, he dropped out after one year due to a lack of clarity about his future goals. At the time, his primary focus was basketball, and he struggled to envision a career outside of it. His decision to leave college was further influenced by the birth of his eldest son, as he felt the need to prioritize his responsibilities as a father.

Darin transitioned to selling crack cocaine as his financial responsibilities grew with fatherhood. By age 24, his substance use had escalated significantly; he was consuming approximately five Percocet and ecstasy pills daily, with ecstasy being his drug of choice.

Darin acknowledges the destructive impact of his addiction to street life. In his mother's words, "He just needed to leave the damn drugs alone." To support his escalating habit, he turned to selling narcotics, a choice he now identifies as a critical turning point in his life. These struggles and their consequences are detailed on page 19 of the Presentencing Investigation Report.

EMPLOYMENT

Darin's history of productive employment and entrepreneurship highlights his work ethic and potential to rebuild his life. These experiences reflect his ability to work hard, manage businesses, and contribute to his community. Darin is eager to leverage these skills to create a better future for himself and his family.

Most recently, he worked as a temporary full-time employee at Hanson Sign Company (October–December 2023) and as a part-time caregiver for his grandmother (December 2023–May 2024) until his arrest. In 2019, he started a garbage-hauling business, "Dee's Hauling," which he operated until 2022, earning up to \$1,000 weekly during its peak. From 2021 to 2023, he also intermittently managed a convenience store, "Legaci," in Jamestown, New York. Earlier roles included factory work (2013–2018), seasonal work for the City of Jamestown Parks and Recreation Department (2011–2012), and packaging parts at Jamestown Electro Plating Works, Inc. (2018).

PERSONAL GROWTH AND COMMUNITY INVOLVEMENT

Darin's primary motivation has always been his family. He is the father of six children, including Rajon Butts, age 11, from a previous relationship with Tanisha Thayer. Rajon is primarily cared for by Darin's mother and sister. Darin is very close with Rajon, as he is old enough to understand the situation and ask questions. Darin's mother is now sober and is a positive influence on Rajon. Rajon is unaware of his grandmother's past struggles because Darin wants him to grow up without needing to make peace with that information.

Legend, age 8, and Legaci, age 7, are from Darin's longest relationship with Haley Pearson. Darin shares a special bond with Legend, who shares his father's love for basketball. Darin frequently trained Legend after school and deeply regrets not leaving the streets before their births.

Saleen, age 8, and Sophia Burnett, age 8, are twins from a casual relationship with Janet Burnett. Darin did not know about them until they were two years old, but he has since worked hard to build strong relationships with them.

Journi Butts, age 2 months, is from Darin's current relationship with Nikita Benson, a registered nurse who has remained supportive. Darin has not yet met Journi, as he and Nikita decided to wait until after his sentencing to protect themselves and their baby from additional pain.

Darin maintains positive relationships with all of his children and their mothers. While incarcerated, he strives to model growth and accountability. He hopes to break the cycle of

his past and teach them the importance of honesty and love.

Darin also has close ties with his siblings. His brother, Bishop, is a full-time student at Niagara County Community College, while his sisters, Darien and Peyton, are employed as a licensed practical nurse and a teacher, respectively. Darin has found the transition to being the incarcerated family member humbling and embarrassing, as he once played the role of supporting others.

Basketball has always been central to Darin's life. Before his arrest, he was deeply involved in coaching five travel basketball teams across the Southern Tier, organizing practices, traveling to games, and mentoring young athletes. He is proud of this work, noting that no one involved with the teams knew about his other life tied to drugs. He is deeply embarrassed by his dual life—one filled with community contributions and another tied to drugs. A recent compliment in jail about his past achievements as a community leader and basketball coach brought him shame as he reflected on how his decisions undermined his potential.

Darin aspires to dedicate himself fully to mentoring youth through basketball. He is passionate about creating opportunities for children in Jamestown and the Southern Tier, where he believes there are few positive outlets. He hopes to inspire the next generation to stay focused and avoid the mistakes he made.

Darin also plans to pursue a college degree while incarcerated and is committed to participating in counseling and drug treatment programs to address his mental health

challenges.

With the unwavering support of his partner, Nikita Benson, his siblings, and his children, Darin is committed to using this foundation to rebuild his life and become a better person. He often reflects on his grandmother, a guiding figure in his life, and is motivated to honor her memory by making positive changes.

CHARACTER LETTERS

Letter from Darin L. Butts Jr.:

Dear Judge Vilardo,

As I stand ready before you to accept full responsibility in this matter, I want to take this opportunity to apologize to this country, community, the whole court, and my family for this conduct and my behavior related to this matter. I plan on pleading guilty to the count 9 of the indictment related to possession with intent to distribute 50 grams or more of methamphetamine.

My conduct has given me the opportunity to reflect on my life and I've concluded that it is time to face my addiction of the street life. For far too long I've been addicted to the drug game. It's a completely horrible game that has destroyed my life, my family's life, and many more. Even though I wasn't using I still struggled with the pain of the addiction of fast money.

For the sake of me and my family I promise to beat my addiction once and for all by obtaining professional treatment. I have six children ages 11, 8, 8, 8, 6 and a newborn baby girl that was just born 5 days ago on the 9th of October. I have a good relationship with all my kids. My girlfriend Nikita Benson and I have been together for over 5 years now and nothing makes me sadder than thinking of them without me in their lives. I absolutely have no greater job or responsibility then taking care of my family and I feel I have let them down by making wrong choices in my life. I hope and pray that someday I can be there again for them, take care and help them mature and grow.

I was born and raised in Jamestown, NY. I have been a resident for 31 years. Despite the conduct that I have been charged with, I know and believe that I have had a positive impact on my family, friends, and the whole community. As badly as I wish

I could, I can't turn back time and seek the treatment to prevent any of this happening. Although what I can do is pledge to you, my family, my attorney, and those in the community to get the treatment I need to finally put all this negative, bad addiction behind me for good. I want to be the man/father my children, my woman, my family, and community deserves, and I promise that's what I will be.

Thank you,
Darin L. Butts Jr.

Letter from Kemyatta Austin:

Please note that this letter is not included in evidence. She requested to verbally present her statement instead.

What can I say about my boy, Darin?

He was a good boy. But you have to think—his mother went to jail when he was six months old. I was living in Florida, and I moved back to take care of him. Me or someone drove him every weekend to see her in jail. I never played mom; he knew who his mom was. But you have to think—a child being taken from their parent. His father was there - yes-but money-wise—no. His father has always been there to talk to him.

His mom was always in and out of drugs. My sister was heavily into drugs. Once my sister got out of jail when he was five, I was trying to let her be a mom. I wish that I had just stayed in his life. I never thought she would turn into the mom that she was. There are stories that I hear of now that I had no idea about during his childhood.

It's his senior year, and his mom is gone again. I always thought I was enough, but sometimes just one person can't be for kids. Yes, he had had me, but when kids don't have their parents, it's a different struggle. The only people working were me and my mom. Everything they got was from me and my mom. We bought everything.

I always told him—do not be any bum on the street. When things didn't work out at college, he didn't know what to do. He was this big basketball star that everyone looked up to. When he was 16, he came home in the winter with no coat that I had just bought. He had seen a homeless guy with no coat, and he gave it away knowing that he would get another one. He had such a big heart. And that was his problem. I don't think he thought it would get to this. So many people were depending on him. He just wanted to stop. Once this all happened, he told me, "I can finally get a good night's sleep." He was taking care of everybody except me and my mom. We are the only ones not needing anything.

They say the worst thing a giver can get attached to is a taker. Because a giver doesn't

know when to stop, and neither does a taker. All this boy had was takers. When those takers are your mom and your dad, and he is paying their rent, what do you do? When you are the only one, and you feel like you have to take care of everyone? He is taking care of his sisters and his brother and of course his kids. And as a giver, he did not know what to do. What do you do when that is your only income? You cannot take care of everyone.

He is such a sweet person. This person they have in the paper... I don't know that boy. When I look at him, I know his heart. You are sitting there getting commissary from me and your girlfriend. He took care of everyone, and now he has nobody.

This boy was adored. The Mayor was his first basketball coach. He would send him a letter every Christmas. The CFO of the hospital I work had him sign a basketball. When you are adored like that, and you lose it, then you try to get that adoration back. And now you are about to do prison time. You should have been doing things.

We raised him in the church. But, he has his momma in him. He has his daddy in him. I can't negate what he saw in that home.

I think this was his wake-up call. He is still young enough to have a life. He should have been a basketball coach. He was loved and adored. He even started his own business picking up trash. He was not doing this to become somebody. He was trying to take care of people. Nothing to show for it, nothing. All of it went to people to try to take care of people.

Letter from Peyton Butts:

Dear Judge Vilardo,

My name is Peyton Butts, younger sister to Darin Butts Jr. I'm writing this letter on behalf as his sentencing hearing is approaching.

Darin and I are four years apart and it was always him and I for the first seven years of our lives. He was, is and always has been more than just a brother to me but also a father figure who has played a major role in who I've become as the woman I am today.

Throughout our lives he's never missed any important events or accomplishments no matter how far when it came to myself, our other brothers and sister and more importantly his children. There's nothing he wouldn't do to help and do for anyone around, and has shown that throughout his life. From creating traveling basketball teams for the younger kids at little to no cost at all, to taking them on trips just to see them happy.

He's always been loved, appreciated and supported by myself, his family, friends and everyone he's come in contact with. His kids are his world, and they need him. And I speak for us all when I say we all miss and want Darin home sooner than later.

Sincerely,
Peyton Butts

Letter from Paige Egroff:

Hi my name is Paige Egroff and I am Darin Butts Jr. younger sister. Darin has always been there for me. My whole life I have known Darin to be a loving sibling, son, friend, and father. Darin means so much to me. I look up to Darin as my older brother. He does everything he can to make sure everyone around him is happy. I recently had a baby 7 months ago and it would mean the world to me for my baby's uncle, Darin, to be able to watch his nephew grow and be in his life. I miss Darin so much. Love you always big bro.

Letter from Tanavia Saintkitts:

Dear Judge

I am writing this letter on behalf of my big brother, Darin Butts Jr. I understand that he is currently facing legal challenges, and I would like to offer my perspective on his character.

Darin has always been a caring and loving individual. Throughout our lives, he has shown kindness and support to our family, his friends, and his friends' families. He always looks out for everyone.

He has my 5 nieces and nephews and has always been an amazing father to them. He has been actively involved with the community's children, by helping them with basketball. Darin is known to uplift those around him, and always putting all of us before himself. We all miss him at home. Thank you for considering this letter as you as you deliberate on his case. I sincerely hope for a fair outcome that allows him to come back home to his family.

Sincerely,
Tanavia Saintkitts

Letter from Ben Drake, Athletic Director:

Dear Judge Vilardo,

I am writing this letter on behalf of Darin Butts, who is currently incarcerated and awaiting sentencing from my understanding. I currently serve as the athletic director and formerly served as the basketball coach at Jamestown High School for many years. I have known Darin since he was a young boy. He was a student at J.H.S. (Class of 2011) and played basketball for me and I had the privilege of having a very close relationship with him throughout his years of growing up.

Darin was faced with many challenges as a young boy. He has a father who was in and out of his life and was not a strong role model. His was raised by his mother, and they had a very combative relationship. She was incarcerated for part of his high school years and during this time, I grew especially close with Darin and tried to provide direction to him, mentor him, and advocate for him in school.

After graduating from high school, Darin entered the workforce after a brief stint in college. He subsequently had a couple of children and appeared to be very involved in their lives. In addition, Darin began to volunteer his time with the local youth basketball travel team. I was hopeful that he was on the right track.

In recent years, Darin would often send me heartfelt messages to express his appreciation for our relationship and our time together. To be honest, I was heartbroken to hear of Darin's arrest and subsequent incarceration. Admittedly, I am not aware of the details of Darin's arrest. I am hopeful that he will receive leniency in the sentencing of his crimes and remain confident that he will one day be a valuable contributor to our community and serve as the father that his children so desperately need. Thank you for your time and consideration of this letter.

Respectfully,
Ben Drake
Athletic Director

Letter from Millicent Leeper:

Please note that this letter is not included in the evidence. She requested to verbally present her statement instead.

Darin is a good kid. He was too far, he wanted to stop because the writing was on the wall. Once you get into that life the only way out is jail. I know from experience because 30 years ago, I was in the same shoes. I did the same thing. To see my son going through this is crazy.

He has 6 children. This is a punishment to his children. He can't learn any more in jail that he hasn't already learned. He sees that he misses his kids.

He is a good person he needs to be with his children he has young children. They really need their father. He has always been in his kid's life. He is a good person he just needed to leave the damn drugs alone. He is my firstborn. I feel bad because he watched me go through all of this. He thought he was going to save the day with this but no. Saving the day is going to work taking care of your kids.

Darin before this happened, started working when he was 14 or 15. He always had a job and he had perfect attendance at these jobs. I really feel as though because he is my son he felt that he needed to take this route. He was born into it. He was born into that's that stupid stuff because I didn't know any better. I was already sentenced to 3-7 years when I got pregnant with him. He always knew about it.

I really love my son I want him to come home I know that he has learned his lesson. He knows now. He knows his children need him. He really is a good soul. He let all of his pride get in the way because he is a good kid. He would help everyone. He had basketball teams. He had a garbage company. He loves the community. I really think that he understands that what he did is wrong. His children just need him, just like I do too.

Letter from Darin Butts, Sr.:

Please note that this letter is not included in the evidence. He requested to verbally present his statement instead.

I'm not saying he should get an easy way out of this because what he did was wrong. He broke the law, and he needs to be punished for it. But what they are trying to give him is too much.

He did well in school and especially in basketball. He has a retired jersey on the wall, and his name is on the gym. His name is also on the school wall. He went straight through school.

He is involved with every kid in this community. We were traveling for basketball with the kids. He got me involved four years ago. We got kids from Dunkirk, Fredonia, and Jamestown. Everyone still loves, supports, and is rooting for him. On weekends, they would travel with their parents and play basketball.

The past few years, he really did mess up his life. Before that, he was focused on school and all the sports that he took. Look at his younger life—he was doing well. He took a bad turn and got into trouble.

The Mayor and everyone in this town can't believe it. He coached every kid in this town. Every parent in this town loves him. Everyone is still 100% behind him. I just hope that the judge can look into his character and his past. It was something really positive. He changed these kids' lives.

He was not a flashy kid. I was truly shocked when I heard of all the stuff he was doing. Everyone was suprised that he could be living two lives.

Letter from Bishop Butts:

Dear Judge Lawrence Vilardo

I'm Bishop Butts. Darin Butts Jr. youngest brother. Before this all happened and even still now I've always looked up to my brother and have seen him as a role model in multiple different ways. I just graduated so all throughout middle school and high school playing sports he was my biggest fan. He's always brought me to the gym to get shots up with me and my friends. To make sure we aren't in the streets getting caught up in that lifestyle. Outside of just sports and school, he was a provider. He would always make sure everyone was okay and didn't need from family or friends or even randomly leave shoes or clothes behind when heading home from a location just because he had understood. He did wrong but in his defense, it was never for bad cause he loved taking care and helping others before anything. He's so loved by the city that the kids from the old school see his name on the wall of fame in the gym and tell me how badly they wanted up there next to his every time I'm there. Even through the bad he only means good he's never been violent, he didn't even get in trouble until he was well-grown. He has always been a positive figure in our city you can ask anyone from old coaches, teachers friends etc. And he has five little ones to raise and take care of. We know he chose the wrong way to go about it but please judge and look at both sides of the situation, not all bad choices have bad intentions. Some just lead to them. I love and miss you so much D! Love you. I will be thinking about you out here all day, I promise. Screaming free you till we see you.

-Bishop Butts

The character letters offer a clear picture of Darin Butts Jr.'s deep commitment to his family, particularly his six children. All of the letters emphasize his role as a father. Darin's mother, Millicent Leeper, stresses that his absence is a punishment to his children, while his sister Peyton describes him as a father figure in her life. These letters reflect that Darin's children are a major motivation for his desire to have a positive future.

Darin's involvement in his community also stands out. Ben Drake, his former basketball coach, recalls Darin's dedication to mentoring local youth, highlighting his capacity to contribute positively to society. This community involvement underscores his potential for rehabilitation and reintegration.

Darin's aunt, who played a significant role in raising him, shares a heartfelt account of his generosity and selflessness, including giving away his own coat to a homeless man as a teenager. She describes Darin as someone who consistently put others' needs before his own, even to his detriment, and believes his struggles stemmed from his overwhelming sense of responsibility to care for everyone around him. Similarly, his cousin echoes this sentiment, recounting Darin's unwavering support for his family and friends and emphasizing that the person portrayed in the media does not reflect the man she knows—a man with a kind heart and a desire to help others.

Darin himself takes responsibility for his actions, apologizing for the harm caused by his addiction and criminal behavior. He has expressed a genuine desire for redemption. His mother, who has faced similar challenges, notes that Darin understands the need for change.

Together, the letters paint a picture of a man who has faced significant challenges and made mistakes but is motivated to turn his life around. With the support of his family and professional treatment, Darin has the potential to overcome his past and contribute positively to his family and community.

INSTANT OFFENSE

Darin was apprehended as part of a drug trafficking investigation conducted by the DEA and the Jamestown Metro Drug Task Force. Between July and August 2023, a confidential informant made controlled purchases of methamphetamine and fentanyl from Darin on seven occasions. Two searches occurred on August 23, 2023, and May 3, 2024. Methamphetamine and fentanyl were seized from his vehicle.

Darin has accepted responsibility for his involvement in these offenses, acknowledging the harm caused and expressing regret for his actions.

THE METHAMPHETAMINE GUIDELINES

There is a statutory minimum sentence of 10 years in this case. The sentencing guideline range pursuant to the plea agreement is 135-168 months. The sentencing guidelines are advisory and serve as one factor among several courts must consider in determining the appropriate sentence. U.S. v. Booker, 543 U.S. 220, 246 (2005). While the Court “must include the Guidelines range in an array of factors warranting consideration,” it is free to decide that “a within-Guidelines sentence is ‘greater than necessary’ to serve the objectives of sentencing.” Kimbrough v. U.S., 552 U.S. 85, 91 (2007).

Courts do not have discretion to deviate from the minimum mandatory sentences established in 21 U.S.C. § 841(b)(1), but courts do have the authority to disagree with guidelines promulgated by the Sentencing Commission, especially where the guidelines at issue “do not exemplify the Commission’s exercise of its characteristic institutional role.” Id. At 109. Where the guidelines are not the result of the Commission’s exercise of its characteristic institutional role, the guidelines are a less reliable estimate of a fair sentence

and are therefore entitled to less deference. *Id.* At 109-10 (holding that district court could deviate from crack cocaine guidelines given that those guidelines did not “exemplify the Commission’s exercise of its characteristic institutional role”). There is a policy disagreement between the sentence guidelines and the methamphetamine guidelines that should be brought to the Court’s attention for three specific reasons.

1) There is no empirical basis for the Sentencing Commission’s harsher treatment of offenses involving higher purity methamphetamine

First, there appears to be no empirical basis for the Sentencing Commission’s harsher treatment of offenses involving higher purity methamphetamine. See *U.S. v. Bean*, 371 F.Supp.3d 46, 51 (D. N.H. 2019). The guideline setting Mr. Lee’s range is U.S.S.G. § 2D1.1, which has its roots in the Anti-Drug Abuse Act of 1986. See United States Sentencing Commission, Guidelines Manual, § 2D1.1 (Nov. 2007). The Act imposed harsh mandatory minimums that were triggered when the weight of the drugs involved in the offense crossed specific thresholds. See *Kimrough*, 552 U.S. at 95. The Sentencing Commission did not rely on empirical research or nationwide experience, and instead used the Act’s mandatory minimums, and the drug weights that trigger them, to set the amount of incarceration that corresponds to each weight category. *U.S. v. Cabrera*, 567 F. Supp. 2d 271, 276 (D. Mass. 2008). For that reason, courts have varied downward in methamphetamine cases. See e.g., *U.S. v. Goodman*, 556 F. Supp. 2d 1002, 1016 (D. Neb. 2008) (varying downward in a methamphetamine case and holding that “[a] variance is appropriate in view of the fact that the Guidelines at issue were developed pursuant to a statutory directive and not based on empirical evidence.”).

2) Methamphetamine purity is no longer an accurate indicator of a defendant's role in a drug trafficking conspiracy.

Second, courts have also varied downward based on a policy disagreement, in that methamphetamine purity is no longer an accurate indicator of a defendant's role in a drug trafficking conspiracy. See *Bean*, 371 F.Supp.3d at 52. Base offense levels for federal drug crimes are calculated according to the Drug Quantity Table in the guidelines, which uses a graduated scale based on the type and quantity of the drugs involved. *Id.* At 49. Methamphetamine is quantified based on purity. *Id.* The guidelines establish a 10:1 ratio in their treatment of quantities of methamphetamine and actual methamphetamine or "ice." *Id.* At 50. In *Bean*, the defendant asked the court to declare a categorical policy disagreement with the guidelines applicable to the methamphetamine offenses, which treat quantities of actual methamphetamine and "ice" more harshly than the same quantities of a mixture containing a detectable amount of methamphetamine. *Id.* At 48. The court agreed with the defendant that the assumption underlying the guidelines' higher base offense levels for higher purity drugs is that the purity "is probative of the defendant's role or position in the chain of distribution." See *id.* at 52; § 2D1.1. Its' effect has been the treatment of all defendants as kingpins. See *U.S. v. Ortega*, No. 8:09CR400, 2010 WL 1994870, at *7 (D. Neb. 2010) ("The [10:1] ratio illogically skews sentences for 'average' defendants to the upper end of the sentencing spectrum, blurring the distinctions between high and low level distribution in a hierarchy.").

However, the assumption that purity has a direct correlation to culpability, while at one time may have been grounded in fact, is no longer an accurate representation of the

current market reality. See U.S. v. Nawanna, 321 F.Supp.3d 943, 951 (N.D. Iowa 2018). Between the 1980's and 2007, the average purity of methamphetamine was approximately between 30% and 80%. Bean, 371 F.Supp.3d at 52. In a 2018 report, the Drug Enforcement Administration ("DEA") found that the average purity of methamphetamine between 2012 and 2017 was over 90%. Nawanna, 321 F.Supp.3d at 951-52. While methamphetamine purity may have been an indicator of culpability in the past, that is no longer the case. The guidelines treat purity of methamphetamine as a rarity, and this is misplaced due to the consistently high average purity. The justification for upward departures based on purity bears little or no relationship to the methamphetamine available today. Id. At 951.

Courts have granted downward sentencing variances on this basis. In U.S. v. Hayes, 984 F. Supp. 2d 1009, 1025 (N.D. Iowa 2013), the court stated that, "[w]hile it may seem logical to punish a pure substance more than a mixed substance, there is no support in the legislative history to explain the formula underlying greater methamphetamine purity to greater months of imprisonment." The Hayes court varied downward from a range of 151-188 months to a range of 100-124 months based solely on its policy disagreement with the methamphetamine guidelines, before then applying a further departure for substantial assistance under U.S.S.G. § 5K1.1. See id. At 1032.

3) Methamphetamine guidelines create unwarranted sentencing disparities.

Finally, a categorical policy disagreement is warranted because the methamphetamine guidelines create unwarranted sentencing disparities between methamphetamine offenses and offenses involving other major drugs. See Bean, 371 F.Supp.3d at 53. Methamphetamine offenses receive more severe sentences than any other drug. Id. The disparity in sentences

between methamphetamine and other drug offenses arises from the fact that the guidelines provide higher base offense levels for actual methamphetamine than for other comparable drugs. *Id.* As *Bean* illustrated, “500 grams of actual methamphetamine earns a base offense level of 34, while the same quantity of other drugs result in lower base offense levels: fentanyl (30), cocaine base (crack) (26), and cocaine (24).” See *id.*; § 2D1.1©.

Variances based on policy disagreements with the Guidelines are consistent with Supreme Court and Second Circuit precedent. See *Kimbrough*, 552 U.S. at 109-10 (“[P]olicy disagreements may provide the basis for a variance from the Guidelines sentence.”); *U.S. v. Cavera*, 550 F.3d 180, 191 (2d Cir. 2008) (en banc) (“[A] district court may vary from the Guidelines range based solely on a policy disagreement with the Guidelines, even where the disagreement applies to a wide class of offenders or offenses.”).

U.S. v. Bean laid out a three-step process for downward variance based on a policy disagreement with the Guidelines. 371 F.Supp.3d at 55-56. The first step is to calculate the guidelines sentencing range using the purity-driven methamphetamine guidelines. *Id.* The second step is to recalculate the guidelines using the base offense level for the same quantity of methamphetamine mixture. *Id.* The final step is to evaluate whether any upward departure or downward variances are appropriate based upon the individual characteristics of the defendant and the other § 3553(a) factors. *Id.* The court, in granting the defendant’s order and applying the three-step process above, went a step further and stated that the court would apply that approach in all actual methamphetamine and “ice” cases regardless of whether the defendant requested the court do so. *Id.* At 56.

3553(a) FACTORS TO BE CONSIDERED IN IMPOSING A SENTENCE

The Supreme Court's ruling in *U.S. v. Booker* established that the Sentencing Guidelines are discretionary, and the court must consider the factors outlined in 18 U.S.C. §3553(a) to determine a "reasonable" sentence. In line with *U.S. v. Crosby*, the Second Circuit emphasized that sentencing judges are obliged to "consider" the Guidelines along with the factors in 18 U.S.C. §3553(a) when formulating a just sentence. Therefore, when determining the appropriate sentence, we ask the Court to take 18 U.S.C. §3553(a) to impose a "reasonable" sentence into consideration.

The Nature and Circumstances of the Offense

Darin's offense—possession with intent to distribute methamphetamine—is undeniably serious and warrants careful consideration. However, it is important to understand the broader context in which this offense occurred. Darin was struggling with a long-standing battle with substance abuse, a condition exacerbated by his difficult upbringing, lack of positive role models, and the pressures of providing for a young family. While his actions were criminal, they were rooted in desperation rather than malice, and he has expressed deep remorse for his choices.

The History and Characteristics of the Defendant

Darin's life story reflects numerous challenges, including being raised in an unstable environment with absent or incarcerated parents. Despite these hardships, Darin has consistently demonstrated a deep commitment to his family, particularly his six children, and

has worked tirelessly to improve his circumstances. His past is marked by efforts to support his community, such as coaching youth basketball and providing leadership to local kids. While his involvement in the drug trade was a misguided attempt to fulfill financial responsibilities, it should not overshadow the positive contributions Darin has made to those around him.

The Need for the Sentence to Reflect the Seriousness of the Offense, Promote Respect for the Law, and Provide Just Punishment for the Offense

While the seriousness of Darin's offense cannot be overlooked, it is important that the sentence reflect not only the crime but also the possibility of rehabilitation. Darin's recognition of his mistakes and his commitment to leaving behind the drug trade for the sake of his family indicate a desire to change. A sentence that balances punishment with an opportunity for rehabilitation would serve the dual purpose of maintaining respect for the law while also acknowledging the potential for positive transformation.

The Need to Afford Adequate Deterrence to Criminal Conduct

Darin has made clear that he is determined to leave behind the lifestyle that led to his arrest. The decision to plead guilty and accept responsibility for his actions reflects an understanding of the consequences of his criminal behavior.

The Need to Provide the Defendant with Needed Educational or Vocational Training, Medical Care, or Other Correctional Treatment in the Most Effective Manner

Darin has expressed a willingness to undergo treatment. Access to rehabilitative services, vocational training, and educational programs will equip him with the tools to

support his family in a lawful and sustainable manner. Such resources would be critical in his successful reintegration into society, ultimately benefitting both Darin and his community.

CONCLUSION

Given the circumstances surrounding Darin's case, we respectfully request a sentence of 120 months.

Darin is not just a former drug dealer; he is a dedicated father, a supportive partner, and a caring brother. His love for his six children, and his ongoing relationship with his girlfriend, Nikita, demonstrate his commitment to being a better person. Darin has always been an active and engaged father, and his siblings have described him as a strong source of support. He has also held steady jobs and contributed to his community in meaningful ways, including coaching youth basketball and mentoring others.

Darin has made significant mistakes; he fully understands the gravity of his actions and is committed to making amends. With the right support, Darin is focused on being a better father to his children and a positive influence in his community. A sentence that includes rehabilitative programming and time to reflect on his actions would allow Darin to continue his journey toward personal growth and ensure that he can be the supportive father and community member he aspires to be.

Respectfully Submitted,

/s/ Thomas J. Eoannou, Esq.
THOMAS J. EOANNOU, ESQ.

EXHIBIT A

Dear Judge Vilardo,

As I stand ready before you to accept full responsibility in this matter, I want to take this opportunity to apologize to this country, community, the whole court, and my family for this conduct and my behavior related to this matter. I plan on pleading guilty to the count 9 of the indictment related to possession with intent to distribute 50 grams or more of methamphetamine.

My conduct has given me the opportunity to reflect on my life and I've concluded that it is time to face my addiction of the street life. For far too long I've been addicted to the drug game. It's a complete horrible game that has destroyed my life, my family's life, and many more. Even though I wasn't using I still struggled with the pain of the addiction of fast money.

For the sake of me and my family I promise to beat my addiction once and for all by obtaining professional treatment. I have six children ages 11, 8, 8, 8, 6 and a newborn baby girl that was just born 5 days ago on the 9th of October. I have a good relationship with all my kids. My girlfriend Nikita Benson and I have been together for over 5 years now and nothing makes me sadder than thinking of them without me in their lives. I absolutely have no greater job or responsibility then taking care of my family and I feel I have let them down by making wrong choices in my life. I hope and pray that someday I can be there again for them, take care and help them mature and grow.

I was born and raised in Jamestown, NY. I have been a resident for 31 years. Despite the conduct that I have been charged with, I know and believe that I have had a positive impact on my family, friends, and the whole community. As badly as I wish I could, I can't turn back time and seek the treatment to prevent any of this happening. Although what I can do is pledge to you, my family, my attorney, and those in the community to get the treatment I need to finally put all this negative, bad addiction behind me for good. I want to be the man/father my children, my woman, my family, and community deserves, and I promise that's what I will be.

Thank you,

Darin L. Butts Jr.

Dear Judge Vilardo,

My name is Peyton Butts, younger sister to Darin Butts Jr. I'm writing this letter on his behalf as his sentencing hearing is approaching.

Darin and I are four years apart and it was always him and I for the first seven years of our lives. He was, is and always has been more than just a brother to me but also a father figure who has played a major role in who I've become as the woman I am today.

Throughout our lives he's never missed any important events or accomplishments no matter how far when it came to myself, our other brothers and sister and more importantly his children. There's nothing he wouldn't do to help and do for anyone around, and has shown that throughout his life. From creating traveling basketball teams for the younger kids at little to no cost at all, to taking them on trips just to see them happy.

He's always been loved, appreciated and supported by myself, his family, friends and everyone he's come in contact with. His kids are his world, and they need him. And I speak for us all when I say we all miss and want Darin home sooner than later.

Sincerely,

A handwritten signature in cursive script that reads "Pey Butts". The signature is written in dark ink and is positioned above the printed name.

Peyton Butts

7:41



Character Letter



me 7:41 PM



to millicentleeper5844@... ▾

Hi my name is Paige Egroff and I am Darin Butts Jr. younger sister. Darin has always been there for me. My whole life I have known Darin to be a loving sibling, son, friend, and father. Darin means so much to me. I look up to Darin as my older brother. He does everything he can to make sure everyone around him is happy. I recently had a baby 7 months ago and it would mean the world to me for my baby's uncle, Darin, to be able to watch his nephew grow and be in his life. I miss Darin so much. Love you always big bro.

...

-Paige

Dear Judge

I am writing this letter on behalf of my big brother, Darin Butts Jr. I understand that he is currently facing legal challenges, and I would like to offer my perspective on his character.

Darin has always been a caring and loving individual. Throughout our lives, he has shown kindness and support to our family, his friends, and his friends family's. He always looks out for everyone. He has my 5 neices and nephews, and has always been an amazing father to them. He has been actively involved with the community's children, by helping them with basketball. Darin is known to uplift those around him, and always putting all of us before himself. We all miss him at home.

Thank you for considering this letter as you deliberate on his case. I sincerely hope for a fair outcome that allows him to come back home to his family.

Sincerely,

Tanavia Saintkitts



JAMESTOWN ATHLETICS

www.jpsny.org/athletics
@JHSRedGreen

December 10, 2024

Lawrence J. Vilardo
United States District Judge
Robert H. Jackson U.S. Courthouse
2 Niagara Square
Buffalo, NY 14202

Dear Judge Vilardo,

I am writing this letter on behalf of Darin Butts, who is currently incarcerated and awaiting sentencing from my understanding. I currently serve as the athletic director and formerly served as the basketball coach at Jamestown High School for many years. I have known Darin since he was a young boy. He was a student at J.H.S. (Class of 2011) and played basketball for me and I had the privilege of having a very close relationship with him throughout his years of growing up.

Darin was faced with many challenges as a young boy. He has a father who was in and out of his life and was not a strong role model. He was raised by his mother, and they had a very combative relationship. She was incarcerated for part of his high school years and during this time, I grew especially close with Darin and tried to provide direction to him, mentor him, and advocate for him in school.

After graduating from high school, Darin entered the work force after a brief stint in college. He subsequently had a couple of children and appeared to be very involved in their lives. In addition, Darin began to volunteer his time with the local youth basketball travel team. I was hopeful that he was on the right track.

In recent years, Darin would often send me heartfelt messages to express his appreciation for our relationship and our time together. To be honest, I was heart-broken to hear of Darin's arrest and subsequent incarceration. Admittedly, I am not aware of the details of Darin's arrest. I am hopeful that he will receive leniency in the sentencing of his crimes and remain confident that he will one day be a valuable contributor to our community and serve as the father that his children so desperately need. Thank you for your time and consideration of this letter.

Respectfully,

A handwritten signature in black ink, appearing to read 'Ben Drake', is written over a horizontal line.

Ben Drake
Athletic Director
(716) 499-4014

Dear Dad,

A Thousand Thanks, Love, Mom & Dad

Dear Dad, I'm writing you in South Africa. I'm still in prison. Brother Peter has not appeared and I still don't know where he is. I'm looking up to my brother and seeing him as a role model in many different ways. I just graduated to an amazing college where I am doing pretty good. Dad was my biggest fan. He always brought me to the gym to see shots up with me and my friends to make sure we weren't in the streets getting caught up in that lifestyle. Outside of just sports and school, he was a pro. He would always make sure everyone was okay and didn't need. From family friends and suddenly leave shoes or clothes behind when heading home from location just because he had. Instantly he'd be living out in his before it was never for long cause he loved taking care and helping others before anything. He's loved by the city, the kids from my old school see his name on the wall of fame in the gym and tell me how bad they want it up there next his everytime im there. Even though he was he only means good. He's never been violent. He didn't even get in trouble until he was well grown. He has always been a positive figure in our city. You could ask anyone from old coaches, teachers, friends etc. And he was a little over to raise and take care of. We know it was a wrong way to go about it but please Judge look at both sides of this situation. Not all bad choices. Have bad intentions some just lead to them. I love and miss you so much Dad. Love you Mom. We think about you out here all day I promise. Screaming for you til we see you!!!!

Bishop Butes

First thing I would like to start out by saying my name is Raymond Rohena. I've been a friend of Darin Butts Jr. since I moved to Jamestown, NY in 2003/2004. Ever since I have met Darin in the 4th grade, he has been a likeable guy and approachable. He is always joking around, smart, and never afraid to speak what was on his mind. We grew up playing sports since the fifth grade. Darin has always been a little bit more advanced than others when it came to sports, but he always had it, always been a captain and leader on and off the court.

Now this new behavior that I have seen from Darin Butts is something I can say caught me off guard. As we got older, we faded away from sports together. We were just busy working or whatever else. I never thought Darin would be in this position ever with him always being an athlete and top of his class. Basketball has always been Darin's sport, he was very good, until he started hanging out with the wrong crowd. Not everyone is perfect, and I know Darin still makes his own decisions, but I still believe that this is not the Darin I know who is always doing something good, always cleaning, taking care of the kids, or mainly coaching basketball. He has been hanging in the wrong environment and I believe if he just acknowledges that the people, he was hanging around with the most were not good for him I believe that Darin Butts Jr can become the person he once was again. I know he still has it in him he just needs to change his ways. I also believe he deserves another chance. I believe that he understands what he has done wrong and right, and I know for sure that doing right is all in his vision now, he has kids to take care of. He needs an opportunity to become something again in life and that's mainly him becoming a real man. I know the real Darin and he shouldn't be in jail; he is supposed to be out in this world with his purpose of leading and teaching. He just hasn't found it yet, but he has it in him and I know he can do it because once he puts his mind into something Darin won't miss.

Thank you,

Raymond Rohena

To whom it may concern:

10/8/2024

Hello, my name is Nikita Benson. I am a licensed Practical Nurse, and I am Darin Butts Jr. girlfriend of five years. We met in 2019. When I first met Darin, I noticed his drive right away. I knew he was a AAU basketball coach. As time went on, I would attend his practices and go out of town to his tournaments with him. The kids were like magnets to him. He made everything fun for them. He was the coach that if he seen a kid that didn't have the means for basketball shoes or a ride to a tournament, he was buying the shoes and taking the kid. We used to have a car full of kids who didn't have rides out of town to these tournaments so Darin would go around town picking up them up to make sure they could go because he seen something in them and wanted the best for them and wanted them to experience the opportunity they deserved. He was also running his own garbage business when I met him. His customers loved him. He would go from Jamestown to Lakewood and everywhere in between. His customers would leave him gifts and look forward to him coming. He just has this addictive personality that always makes you smile and enjoy his company.

Darin has always been family orientated. He was the glue to hold everyone together. He had a huge part in raising his siblings. He always made sure they were good. They had school clothes, food to eat, and they were safe. He even took care of his parents paying their bills and making sure they were ok. His grandmother, Fannell Leeper, and him had a relationship anyone would envy. His grandmother had raised him most of his life due to his mother catching a federal case in her younger years. Fannell worked a lot to support Darin and his siblings so that left Darin to cook, bathe, get up and walk his siblings to school before he walked himself to his own school. Then he would get out of school and bring his siblings to his basketball practices with him. They all relied on him, and I caught on to that fast. All the pressure was on him to make sure everyone was good and that was including his 5 children he had already had.

Darin and I moved in together fast. I slowly introduced my kids to him. They all took to him fast and grew in love with him like I had. Even my oldest daughter who doesn't like anyone. He always treated them as his own and helped me to get them to and from school because my work schedule was not always accommodating.

Darin is special. He has a love for children I have never seen. I believe it's because of all the struggles he had growing up that caused him to have a "no child left behind" policy. He made sure children in our community had the best birthdays, Christmas', holidays etc. He always made sure by the time he left a child they were smiling and having a better day. He would have moved kids in with us if I had allowed.

I started to see Darin slipping. The stress of everyone relying on him was catching up. He was coaching, we had opened a store he was running, he was helping take care of his sick grandmother, and constantly had family and friends asking him for money because times were tough, and he didn't know how to say no. We had many fights about this. I was working a lot myself and we were trying our best to raise our nine children together.

Darin motivated me like no other. He would push me to do my goals I always wanted to achieve. I started my pre recs for RN school and he was my biggest cheerleader. So, I would return the favor and push him to keep his store up to date and try to stay focused. I believe we are a good team.

Darin got in trouble the first time in August of 2023, and it devastated us all. Our whole world was ripped apart and it was hard to push on to the next day. Life had forever changed. It's a feeling I could never explain in words. I'll never forget one of the federal officers looking me right in my face and saying, "you guys are going to have some dark days ahead." That was a very true statement. Darin ended up getting released to our home on house arrest on a ankle monitor and I slowly watched him fall apart. His mental health was suffering bad and there was nothing I could do. We just pushed through the days and tried to make the best of it. I ended up getting pregnant in November of 2023. We were ecstatic. Finally, a light in our tunnel. Something good we could focus on and look forward to. Then came the big bomb. Darin's nana Fannell became very ill, and we knew she wasn't going to pull out of it. We lost her in December of 2023 and then a couple days later we lost our baby. We were back to devastated. We weren't communicating like we should have we both were just lost in life. I ended up getting pregnant again right away which brought some happiness back again but I'm assuming it stressed Darin out more watching me work doubles trying to hold our household down and being drug down and exhausted from pregnancy. It was killing him not being able to help and no one would hire him. He would apply to a couple of jobs a day and even call to follow up, but no one would take him. Then he got caught again. It totally blew my whole world apart. I had no idea he had gotten back into that mess. I was devastated. He wouldn't even look at me. He was humiliated.

Since Darin has been in jail, he has attended classes and earned certificates to learn and better himself. He is also seeing a counselor. He is trying hard to better himself as a human and become the man he once was. He motivates me through RN school. He calls daily to check on his unborn daughter and his stepchildren. He draws up plans for my son to train him for this upcoming basketball season. He is doing a lot of positive things. He stays positive and I don't know how under his circumstances, but he does. He is also working as a trustee in the jail in the kitchen. He talks positive about his future and all the positive things he plans to do when he gets out of prison. He understands what he has done is wrong and he expresses how awful he feels about ruining families and lives with his bad choices. He is missing out on a lot of of important things such as the pregnancy of his daughter and her upcoming birth and all his children growing up and missing their sporting events etc. It is his consequences, and he is accepting them fully. I truly believe that Darin and I can build the life legally that we have always wanted. I plan to stick by him, encourage him, and push him to be the best he can be. He deserves it and I won't give up on him. I hope this letter can help open your eyes and understand that the monster moves that he was making was not the Darin we all knew. He was living a secret life that even he despised, and he has told me he is so happy it is over, and he wishes he would have got caught sooner because he didn't know how to get away even though he was trying so hard to leave that all behind. Darin has a lot of people in the

community that love him and hope the best for him. Hopefully he will have the chance to show us all he is the Darin that we all know and love again and a good person to society again.

Thank you for your time.

Nikita Benson

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

vs.

DARIN BUTTS, JR.,

DEFENDANT

23-CR-141

I hereby certify that on February 13, 2025, I electronically filed the foregoing with the Clerk of the District Court using its CM/ECF system, which would then electronically notify the following EM/ECF Participant on this case:

**Louis Testani, AUSA
138 Delaware Avenue
Buffalo, New York 14202**

s/Angela Foster

ANGELA FOSTER