

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**v.**

**DOUGLAS G. SCHIFER,**

**Defendant.**

**CASE NO. 2:21-CR-80**

**MAGISTRATE JUDGE DEAVERS**

**Sentencing Memorandum of the United  
States**

The United States hereby submits its Sentencing Memorandum for the Court's consideration in connection with the sentencing of Defendant Douglas G. Schifer. There are no unresolved objections. For the reasons that follow, a sentence of 12 months of imprisonment, a \$100,000 fine, a 1-year term of supervised release, and a restitution order of \$698.75 would be sufficient but not greater than necessary to achieve the statutory goals of sentencing.

**BACKGROUND**

On March 17, 2021, the United States obtained a Criminal Complaint charging Defendant Douglas G. Schifer with one count of Criminal Interference with Right to Fair Housing, in violation of 42 U.S.C. § 3631. (Complaint, R.1.) He was arrested the following day.

On May 10, 2021, the United States Attorney filed a Bill of Information charging Mr. Schifer with one misdemeanor count of Criminal Interference with Right to Fair Housing. (Information, R.13.) The same day, the Parties filed a Plea Agreement to resolve this case. (Plea Agreement, R.14.)

In the Plea Agreement, Mr. Schifer admitted that he had used force to intimidate others because of their religion, and that he had done so in an effort to interfere with their housing rights. (*Id.* at 30 (all pinpoint citations to record documents refer to the PAGEID # in the ECF

header).) More specifically, Mr. Schifer used and threatened force because his neighbors were Jewish and were enjoying their right to occupy their home.

On November 7, 2020, Mr. Schifer's next-door neighbors, a married couple, were grilling on their back patio with four guests. (*Id.* at 35.) Through a shared fence, Mr. Schifer's dog and his neighbors' dog started barking at each other. (*Id.*) Mr. Schifer responded by threatening the dog and by shouting antisemitic slurs and threats at his neighbors and their guests. (*Id.*) This was no stray comment. The defendant said, "all you fucking people, it's no wonder Hitler burned you people in ovens"; "fucking Hitler should have gassed you"; and "Jews burn, you belong in ovens." (*Id.*) He also threatened to shoot his neighbors, kill their dog, and burn their property to the ground. (*Id.*) Mr. Schifer then spat at one of his neighbors. (*Id.*)

He wasn't finished. Later that evening, when he saw his neighbor on the sidewalk, Mr. Schifer squared up as if to fight. He then called his neighbor a "fucking heeb [or Hebe]"—a derogatory term for Jews that shortens the word "Hebrew." (*Id.*)

Later that night, the same neighbor was burning sage, which generated smoke. (*Id.*) Mr. Schifer said, "I hope you only find smoke on the outside, you fucking Jew." (*Id.*)

Mr. Schifer's acts reached a crescendo around 8:00pm. The neighbors and their guests were in the living room of the neighbors' home. (*Id.*) Shortly after eight o'clock, they heard a loud crash. (*Id.*) Mr. Schifer had broken a window in their front door, and glass had shattered across the floor of the living room. (*Id.* at 35–36.) When it happened, they were not interacting with Mr. Schifer; there was no active conflict. Instead, he broke the window because of the neighbors' religion and because they were enjoying their federally protected right to occupy a dwelling. (*Id.* at 36.)

The neighbors called the police. (*Id.*) They also called the male neighbor's father, who came over to their house. (*Id.*) As they waited for the police to respond, the neighbor and his father inspected the broken window, then walked to the backyard area. (*Id.*) Across the fence they saw Mr. Schifer, who reinitiated his antisemitic slurs and threats. (*Id.*) Calling them "fucking Jews," Mr. Schifer told them he would "put a fucking bullet in [their] head" if they took another step toward his fence. (*Id.*) He again referenced Holocaust crematoriums and Hitler, saying, "that's why he put you people in furnaces" and "I'll chop you up and put you in pizza ovens." (*Id.*) Ultimately the police arrived, and there was no further interaction that night between Mr. Schifer and the victims.

The FBI started to investigate Mr. Schifer's acts as a hate crime. On January 28, 2021, members of the FBI attempted to interview him at 10:31am. (*Id.*) Seventy-eight minutes later, Mr. Schifer called in a complaint to the City of Columbus, complaining that the victims had turned their garage into living quarters without proper permits. (*Id.*) He also offered assistance to the City to investigate his allegations of permit violations. (*Id.*)

Mr. Schifer appeared before the Court to offer his plea of guilty on June 28, 2021, and admitted the facts laid out above. The Court accepted his plea and adjudged him guilty.

The Probation Office released the Final Presentence Investigation Report on September 14, 2021. Sentencing is scheduled for November 23, 2021.

### **ARGUMENT**

The Probation Officer calculated that Mr. Schifer's Total Offense Level is 20 and that his Criminal History Category is I. To come to this calculation, the Probation Officer started with the instruction in U.S.S.G. § 2H1.1(a)(1) that the base offense level is determined by the offense guideline applicable to any underlying offense. PSR ¶ 36. The underlying offense is Threatening

or Harassing Communications, under U.S.S.G. § 2A6.1, so the base offense level is 12. *Id.* The Probation Officer applied a six-level increase based on a finding that Mr. Schifer engaged in “conduct evidencing an intent to carry out such threat.” PSR ¶ 37; U.S.S.G. § 2A6.1(b)(1). A two-level increase was also applied because “the offense involved more than two threats.” PSR ¶¶ 38–40; U.S.S.G. § 2A6.1(b)(2). Finally, the Probation Officer applied a three-level enhancement because Mr. Schifer selected his victims on the basis of their religion. PSR ¶¶ 43–44; U.S.S.G. § 3A1.1(a). Despite the timing of Mr. Schifer’s complaint to the City of Columbus and his apparent intent to retaliate against his victims for reporting him to law enforcement, the PSR did not apply an enhancement for obstruction of justice. PSR ¶¶ 46–49. Mr. Schifer objected to none of this.

The Probation Officer correctly noted that these calculations would ordinarily result in an advisory guidelines imprisonment range of 33 to 41 months. PSR ¶ 93. Because the statutory maximum term of imprisonment is one year, however, the guidelines imprisonment range is 12 months. *Id.*; U.S.S.G. § 5G1.1(c)(1). The Probation Officer also correctly noted that Mr. Schifer’s Total Offense Level and Criminal History Category would result in advisory guidelines ranges of a fine of \$15,000 to \$100,000 and a term of supervised release of 1 year. PSR ¶¶ 96, 101. Because there are no pending objections, the United States will turn to the statutory sentencing factors under 18 U.S.C. § 3553(a).

Based on the § 3553(a) factors, the United States recommends a sentence of 12 months of imprisonment, a \$100,000 fine, a 1-year term of supervised release, and a restitution order of \$698.75.

*Nature and circumstances of the offense.* Mr. Schifer used force to intimidate and injure his neighbors because they were Jewish and were enjoying their federally protected right to

enjoy their home. Mr. Schifer shouted antisemitic slurs at his neighbors and threatened them, their dog, and their home. This was not a momentary blow-up: Mr. Schifer's hateful statements and acts occurred repeatedly and over the course of several hours. Every time he encountered his neighbors that day, Mr. Schifer threatened them and hurled derogatory and inflammatory language at them. He used anti-Jewish slurs on no fewer than nine occasions. He was not satisfied with forcing them inside and out of his sight. When they were gathered indoors in the living room, Mr. Schifer sneaked onto their porch and broke a window in their front door.

Mr. Schifer's offense made the victims feel unsafe in their own home. Both of the victims expressed that they would feel unsafe in their neighborhood if Mr. Schifer continued to live there. PSR ¶¶ 20, 27. These feelings of fear and insecurity have caused the victims to change their behaviors and, in some ways, have made their world smaller. One victim has purchased a firearm for the first time in his life, to keep his family safe. PSR ¶ 20. The other victim no longer feels safe walking down the public sidewalk in her neighborhood or standing near the window of her home. PSR ¶ 27. She did not open the blinds or go to her backyard for months. *Id.* Mr. Schifer's actions have given her nightmares. *Id.*

Perhaps most notably, the victims have said that if Mr. Schifer were to continue to live next door to their home, they would move their family to another neighborhood. PSR ¶ 20. This would be a tragic result because it would mean that Mr. Schifer would have gotten what he wanted. After all, Section 3631 requires proof that the defendant used force to intimidate or injure his victims *because* they were enjoying a federally protected housing right. By pleading guilty, Mr. Schifer has admitted that he used force *because* the victims were occupying their home.

The offense is also more serious than the typical case involving threats and property damage because Mr. Schifer selected his victims based on their religion. This increases the harm to victims in two ways. First, it dehumanizes them and reduces them to a single characteristic: their religion. Second, victimization is not limited to the persons directly harmed, but also includes others who share the victims' religion. Mr. Schifer's antisemitic threats, slurs, and acts generate harm for all members of the Jewish faith because he was motivated by bias. Bias-motivated crimes instill fear in communities and make members of minority populations feel under siege. More broadly, they undermine values that our democratic society holds dear—values such as equality and liberty. People should be able to live in their homes peacefully without fear of being harassed because of their faith.

The seriousness of the offense warrants the United States' recommended sentence.

*History and characteristics of the defendant.* One of the most significant characteristics relevant here is Mr. Schifer's alcoholism. He is a binge drinker and when he drinks, he consumes as many as 20 beers at a time. PSR ¶ 75. By all accounts, he was inebriated at the time of the instant offense. *See* PSR ¶ 32. His alcohol abuse does not provide an excuse or a justification for his criminal actions. Instead, it presents a real risk that he will reoffend. The Sentencing Commission has recognized that substance abuse is "highly correlated to an increased propensity to commit crime." U.S.S.G. § 5H1.4. Mr. Schifer's alcohol abuse presents risks to others not only because of the ordinary risks of alcohol abuse but also because Mr. Schifer takes medications for mental health conditions that he is not supposed to mix with alcohol. PSR ¶¶ 32, 72, 111.

Mr. Schifer also has some prior criminal history suggesting that his acts on November 7 were not isolated incidents. He has a prior conviction of Aggravated Menacing and another for

Domestic Violence. PSR ¶¶ 55–56; *see also* PSR ¶ 59 (showing Mr. Schifer was arrested for Aggravated Menacing, but the charges were dismissed). Although these convictions do not result in criminal history points under the guidelines, they show some history of violence and menacing. *Id.*

*The need to afford adequate deterrence and to promote respect for the law.* Recent years have led to a troubling increase in bias-motivated acts. Crimes motivated by hate and discrimination seem to be on the rise. This is not mere perception; the numbers back it up. Based on data collected by the FBI, the number of reported hate crimes perpetrated last year was the highest in 12 years. *See* Joe Hernandez, “Hate Crimes Reach the Highest Level in More Than a Decade,” NPR, Sept. 1, 2021, <https://www.npr.org/2021/08/31/1032932257/hate-crimes-reach-the-highest-level-in-more-than-a-decade>. These numbers do not capture the number of hate crimes that go unreported. It will take a multi-prong effort to effectively deter those who would commit bias-motivated crimes. Imposing a twelve-month prison sentence and a \$100,000 fine will help promote deterrence in this important area.

*The kinds of sentences available and the sentencing range.* As detailed above, with a different statute of conviction, the guidelines imprisonment range would be 33 to 41 months. PSR ¶ 93. But because the statutory maximum sentence for his offense is 12 months, Mr. Schifer’s guidelines range becomes that maximum possible sentence. *See* U.S.S.G. § 5G1.1(c)(1). That the guidelines would otherwise call for a sentence more than double what the United States is recommending demonstrates that no downward variance is appropriate here.

Given the circumstances of the offense and Mr. Schifer’s ability to pay, a fine is also warranted. The guidelines fine range is \$15,000 to \$100,000, the high end of which is the maximum fine authorized by Congress for Mr. Schifer’s crime. *See* PSR ¶ 101; 18 U.S.C.

§ 3571(b)(5). Mr. Schifer's monthly net cash flow is more than \$11,000, and his net worth exceeds \$1.2 million. PSR ¶¶ 80, 91. Imposing the maximum fine of \$100,000 will help reflect the seriousness of the offense, promote deterrence, and promote respect for the law.

*The need to provide restitution to victims.* Based on documentation provided by the victims, the Probation Office has determined that Mr. Schifer's restitution obligation should be \$698.75. PSR ¶ 105. Mr. Schifer has not raised an objection to the restitution amount. Although that amount does not fully capture the expenses that the victims have taken in response to the crime, such as buying a Nest camera system and a firearm, the calculation is proper based on what Congress has authorized for restitution. *See* PSR ¶ 28.

Taking into account the nature and circumstances of Mr. Schifer's crime, his personal characteristics, the need for deterrence, the kinds of sentences available, and the need to provide restitution to victims, the United States' recommended sentence is appropriate.

**CONCLUSION**

For these reasons, a sentence of 12 months of imprisonment, a \$100,000 fine, a 1-year term of supervised release, and a restitution order of \$698.75 would be sufficient but not greater than necessary to achieve the statutory goals of sentencing.

**Respectfully submitted,**

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Sentencing Memorandum of the United States was served this 16th day of November, 2021, electronically upon counsel of record for the defendant.

s/ Peter K. Glenn-Applegate  
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