

**IN THE UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS
URBANA DIVISION**

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 20-CR-20073
	)	
DANIEL R. BRUE,	)	
	)	
Defendant.	)	

THE UNITED STATES OF AMERICA’S AMENDED SENTENCING

COMMENTARY¹

NOW COMES the United States of America, by its attorneys, Douglas J. Quivey, Acting United States Attorney for the Central District of Illinois, through undersigned counsel, and respectfully files this sentencing commentary in support of its request for a sentence at the highest end of the sentencing guidelines.

BACKGROUND

Exploiting his position of trust as school district superintendent, Daniel Brue stole money from two different school districts: Meridian and Bement. Brue created a fake construction company (“Ideal Consulting and Construction”) for the sole purpose of stealing money from those school districts. He submitted phony invoices with detailed

¹ This sentencing commentary replaces the sentencing memorandum filed by the United States earlier today. The only change is the inclusion of the introductory paragraph: “NOW COMES. . .” to ensure uniformity with other pleadings from the United States Attorney’s Office.

descriptions for work never performed and spent the money self-indulgently, on trips and gifts.

This sentencing memorandum presents the crimes out of chronological order. The sentencing memorandum starts with the crimes that Brue pled guilty to: four counts of wire fraud involving the Meridian school district. Later in the memorandum, his earlier crimes against the Bement school district are addressed.

MERIDIAN SCHOOL DISTRICT

The phony invoices to Meridian School District are shown here. The invoices were sizeable and frequent. No work was done at all.

<u>Invoice date</u>	<u>Description</u>	<u>Amount</u>
9/23/2014	Vent Hoods/Install-FCS Lab	\$ 8,624.00
10/22/2014	Culinary Lab Fan	\$ 2,953.00
11/27/2014	Install Insulation-HS	\$ 4,150.00
12/24/2014	Install MDL Sump Pump	\$ 2,250.00
2/12/2015	Install/Remove Asbestos Cont. Area/Phase 2	\$ 5,259.00
2/27/2015	Set Up/Take Down Asbestos Containment Area	\$ 1,895.00
4/1/2015	Cabinet Install - Phase I	\$ 5,840.00
5/8/2015	Asbestos Area Install/Down -MDL	\$ 3,957.00
6/10/2015	Install/Take Down Asbestos Area	\$ 4,852.00
7/10/2015	Asbestos Containment Area	\$ 3,468.25
8/10/2015	Install/Teardown Asbestos Area - HS	\$ 5,298.25
5/21/2015	Asbestos Install/Remove Containment	\$ 8,327.24
9/21/2015	Asbestos Containment Area - HS	\$ 6,752.00
10/21/2015	Repair Roof - HS	\$ 7,154.00
11/25/2015	Foam Insulation - Phase II	\$ 4,652.00

12/20/2015	Containment for Asbestos	\$ 4,050.00
1/28/2016	Containment for Asbestos	\$ 5,298.00
3/16/2016	Asbestos Abatement	\$ 6, 675.00
3/29/2016	Insulation Projects Area A/B	\$ 1,850.00
6/1/2016	Asbestos Removal	\$ 5,268.00
6/22/2016	Asbestos Abatement Containment	\$ 4,726.00
7/25/2016	Tear Down Asbestos MDL School	\$ 2,238.00
8/25/2016	Final Payment Asbestos	\$ 4,265.00
8/30/2016	Install Downspouts-Elem	\$ 2,784.00
9/22/2016	MES Foyer Ceiling/Lights	\$ 3,488.00
9/25/2016	Sidewalk – Elem	\$ 4,366.00
10/15/2016	Sidewalk – Elem	\$ 4, 872.00
12/24/2016	Asbestos Removal GRLS Locker Room BM	\$ 4,871.00
12/28/2016	Asbestos Removal – Elem Locker Room	\$ 3,156.00
2/10/2017	Install Sewer Line to MES	\$ 16,375.00
8/15/2017	MES Gym Asbestos Removal	\$ 6,258.00
12/1/2017	Compressor – Elem	\$ 2,675.00
12/1/2017	Replace Geo Thermal Pumps-Elem	\$ 3, 654.00
1/19/2018	Repair Cooler-Elem	\$ 2,325.00
4/1/2018	Replace HVAC Compressor-Elem	\$ 4,687.00
3/11/2018	Install Stair Lift-Elem	\$ 12,187.00
6/2/2018	Fire System Extension	\$ 2,456.68
6/2/2018	Fire System Extension	\$1,838.32
7/3/2018	Extension Fire Sprinkler System – Elem	\$ 5,987.00
8/31/2018	Replace Terminal Controllers – Elem	\$ 1,966.00
8/31/2018	Replace Terminal Controllers – Elem	\$ 1,966.00
10/1/2018	Software Rooftop Units – Macon	\$ 2,678.00

10/24/2018	Roof Repair – Macon	\$ 6,952.00
11/12/2018	Heat Pump Valves – Elem	\$ 3,324.00
12/3/2018	Heat Pump Valve Repair – Elem	\$ 2,516.00
1/10/2019	Valve Replacement on Heat Pumps	\$ 3,803.00
2/10/2019	CX TEV Valves-Heat/Cool System	\$ 2,691.00
4/1/2019	HLS Survey 2019-2024	\$ 6,250.00
3/28/2019	10 YR HLS Survey	\$ 5,750.00
4/19/2019	Install TXV Valves-Elem	\$ 750.00
4/19/2019	Install TXV Valves -Macon	\$ 750.00
4/26/2019	HLS Survey – Bus Garage	\$ 2,600.00

The scheme was brazen. To steal the school districts’ money, Brue registered an LLC for Ideal Construction with the Illinois Secretary of State. He provided descriptions for work never performed, such as asbestos removal and containment.

Brue did not appear to care about the significant harm this could have caused. If asbestos removal and containment were legitimately needed, the school districts would have declined the services, believing the work had been done. The total restitution for Meridian School District was \$ **233,777.74**.

DISCOVERY AND INVESTIGATION

The fraud was discovered because Brue instructed a school employee to give him the checks for Ideal Consulting so that he could “hand deliver” payment. The school employee noticed that the check was deposited the next day in a PNC bank account via mobile deposit, with a handwritten endorsement “for deposit only Ideal Consulting Services.” Based on this red flag, the school district consulted with Floyd & Associates, CPAs, to begin an audit.

When Floyd & Associates started its audit fieldwork on July 22, 2019, it made several phone calls to identify the existence of Ideal Consulting and Construction Services. No one had heard of the company. After speaking with (1) the Petersburg, IL Chamber of Commerce, (2) a lifelong resident of Petersburg, and (3) Kim Kurtenbach of BLDD Architecture, the auditors approached Brue and asked if he had a tax ID number for the company. To deceive the auditors, *Brue forged a tax document*. The next day, Brue produced the forged IRS Form W-9 for the company, “signed” on July 23, 2019, by Donald Bordenkirchner, 201 Chestnut Place, Petersburg, Illinois 62675, showing it was a sole proprietorship.

After Floyd & Associates exhausted all efforts to confirm the company’s existence, Floyd & Associates set up a meeting with Brue for July 26, 2019, and confronted him, asking if he had any information about Ideal Consulting. Brue persisted in his lies. He told the auditors to call Kim Kurtenbach of BLDD Architecture, since BLDD set up all the companies used by the school. The auditors said that they had spoken with Kim and she had not heard of the company.

At that point, according to the auditors, Brue got up out of his chair and closed all the doors to his office. Returning to his desk, he said: “I am going to lose my job. I took the money. I created the fake invoices and took the payments and deposited them into a PNC bank account in my name via mobile banking. I have written my letters of resignation. I would like to tell my office personnel myself, I would like to talk to my wife because she knows nothing about what I’ve done. I told her this extra money was from

my helping other districts do their yearly budgets. And, I will then turn myself into the police.”

One of the striking things about this ‘confession’ is Brue’s level of entitlement. Having just confessed to years of federal felonies, Brue attempted to control the situation, telling the auditors the order of events, whom Brue would like to speak with, and when he wished to turn himself into the police.

This level of entitlement and control, which frankly borders on delusional, is manifest in his resignation letter as well. In his resignation letter, Brue suggested that, “[d]ue to the unusual circumstances, one possible way to reorganize and move efficiently into the new school year would be to name Andy Pygott, Superintendent and Mandy McGuire as MMS Principal in the interim (year). Both are capable of fulfilling that role.”

In the same letter, Brue also mentioned that he “will miss working with the employees of the district and it has been an honor working with them over the last several years.” Against the backdrop of his years-long fraud, which necessarily included betraying and lying to his co-workers, it is hard to make sense of Brue’s statement.

BEMENT SCHOOL DISTRICT

As far as we know, Brue’s first crimes occurred when he was superintendent of the Bement school district. The fake invoices submitted to the Bement school district are listed below. Bement did not discover his crimes until after Brue had left the district.

9/1/2011	Roofing (new framing, roofing system, and flashing)	\$ 3,854.00
10/6/2011	Light pole inspection (football field)	\$ 1,200.00
10/31/2011	Roof repair	\$ 1,853.33

11/15/2011	Replace condensate pump	
	Re-pipe 2 – 15 ft. Sections of HW return	\$ 2,658.35
12/8/2011	Boiler repair	\$ 3,686.03
1/17/2012	Installation of roof patch, and downspout repair	\$ 1,125.00
2/6/2012	Steam pipe repair / removal of asbestos insulation	\$ 3,721.55
2/22/2012	Condensate pump replacement	\$ 2,024.00
3/9/2012	Roof repair	\$ 1,125.00
4/3/2012	Roof repair (high school)	\$ 3, 958.25
5/11/2012	Roof and Boiler Maintenance	\$ 2,513.48
6/18/2012	Plumbing Repair	\$ 2,894.50
7/16/2012	Install of toilets, vanities, partitions in BHS bathrooms	\$ 4,126.32
8/15/2012	Final Plumbing payment for install of vanities, toilets, partitions	\$ 6,156.25
9/7/2012	Painting	\$ 2,687.00
10/2/2012	Restroom repair	\$ 5,171.58
10/23/2012	Pipe fitting	\$ 3,174.00
11/9/2012	Radiator repair	\$ 925.50
11/23/2012	Condensate Pump Replace	\$ 2,259.32
12/17/2012	Roof repair and boiler maintenance	\$ 2,513.48
1/14/2013	Water pipe replacement	\$ 2,158.00
1/25/2013	Air compressor repair	\$ 960.00
3/5/2013	Installation of roof flashing on high school gymnasium/lobby	\$ 2,657.00
4/11/2013	Removal and replacement of entire roof system and installation of a Base and 3 ply, Hot Melt Roof System, with warranty and job-site inspection and Monitoring. (Section D)	\$ 5, 236.78
5/13/2013	Hot Water Return Pipe Repair/Replace	

	Boiler Shutdown Maintenance	
	Installation of Seamless Guttering	\$ 5,497.10
6/7/2013	Hot Water Pipe replacement	\$ 2,438.26
The total restitution for Bement School district is \$ 76,576.08 .		

BRUE'S NOTE TO HIS WIFE

July 26, 2019 was the last day that Brue was in the Meridian school building. On August 2, 2019, Meridian's bookkeeper found a torn-up note in the garbage can of Brue's former office. Defendant admitted he was the author, but told law enforcement that he was not suicidal and that the letter had been written many days ago. The letter instructed Brue's wife to spend his school-funded retirement quickly, so that the schools would not be able to get their money back. The letter is reproduced here.

[Wife's name],

I have been deceiving you for the last several years concerning my side business of Ideal Consulting. I have told you that this business was a budgeting software consulting business for small school districts. In fact, I have been creating false vendor invoices at the school districts that have employed me as a superintendent for a number of years. I have used that money to fund our daily lives, go on vacations, buy Christmas/Birthday presents and generally try to give you and the kids (and me to a certain extent) the things that they needed and/or wanted. In doing so, I have broken the law and deceived multiple people to do this. In the next few weeks, this is going to start coming to light and there are going to be a lot of things said negatively about me. For the effects that this is going to have on you, the kids and the rest of my family, I apologize very much. It was never my intention to hurt you or the kids. I really just wanted to provide the best life for everyone. That being said, your life is going to get a lot more complicated in the next few weeks, months, and possibly years. I also apologize for putting this burden onto you. It is not fair to you or anyone involved and I am truly sorry.

Please use the beneficiary funds from TRS to pay off debts and don't delay too much in doing the paperwork to get this moving. You should receive about \$250,000. Pay off all the credit cards that you can and then finish refinancing the house so you can afford the payment. Give my truck back to the bank. I am afraid that you may not get to use this money too fast if the school districts move to take that TRS money. So please utilize that money as soon as possible. In addition to this you should also get the life insurance money from Country Companies and through the school district.

If any law enforcement officials question you in regard to your knowledge of my side business, feel free to give them this letter as further evidence that you didn't know anything about it except for the lies that I told you.

Please don't spend too much money on funeral expenses for me. I don't deserve anything elaborate and you need to save as much money as you can.

Please tell the boys that I love them very much and I am sorry for letting them down. I hope they remember the positive things about me and learn from the negatives. Jonah needs to continue to work hard in school and use education as his path towards a successful career. He can do anything he wants if he shows the proper motivation and work ethic. As soon as Adam decides to do what he wants, he will get his life in order and do very well I am sure. Mason really has grown up over the last few years. I hope he decides to stay in the military or pursue a career in law enforcement or corrections. The structure of those careers really suit him.

Please let my Mom, Dad and brothers know that I am sorry for staining the family name and embarrassing them. In life, I tried to hold pretty solid values, but in this case, I failed miserably.

Lastly, please know that I loved you more than anything and I am sorry I failed you. I had a responsibility to be a loving, caring and providing husband and to help raise our children. Although I believe I have done this pretty well, I failed to complete my job. I wish I could have grown old with you. I hope you find the strength to move on from this setback to the best of your ability.

Even contemplating his own suicide, Brue continued to plot how to hide money from his victims. Brue directed his wife to use his school-district-funded retirement money as soon as possible so that the school districts could not get it. These are not the words of a repentant man, as Brue portrays himself to the world; these are words of cold calculation. Far from wanting to make his victims whole, Brue wanted to ensure that his wife spent the money, so his victims could not recover it.

THE VICTIMS

The victims are school districts and, indirectly, the children who attend their schools. The impact of these crimes has been thoughtfully detailed in the victim-impact

statements. The United States asks the Court to consider that Brue stole from children, their education and their teachers.

Crimes against institutions can appear to be victimless, although they are not. The Meridian school district provided a photo of its students at a parade (filed under seal as Exhibit A), and a photo of Meridian's fundraising efforts for the Ag facilities greenhouse project (filed under seal as Exhibit B) to give a face to those impacted by Brue's crimes.

POSSIBLE PENALTY AND SENTENCING GUIDELINES

The maximum term of imprisonment is 20 years on each count; the maximum fine is \$250,000. 18 U.S.C. § 1343. As set forth in the plea agreement, the defendant's total offense level is 20, his criminal history category is 1. The guideline imprisonment range is **41-33 months**.

GOALS IN SENTENCING

A sentence must be sufficient, but not greater than necessary, to meet the goals of sentencing. 18 U.S.C. § 3553(a).

Those goals are: (1) to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense; (2) to afford adequate deterrence to criminal conduct, (3) to protect the public from further crimes of the defendant, and (4) to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner.

In Brue's case, only a sentence at the highest end of the Sentencing Guidelines is sufficient to meet the goals of sentencing.

A. Seriousness of the Offense; Promote Respect for the Law; Just Punishment

Parents, teachers, children, and school administrators know what the defendant did and they will see the sentence the Court hands down. To promote respect for the law, the punishment must fit the crime. Members of the public will know if the conduct is not adequately punished, which would erode respect for the law and its institutions, including courts and judges.

Embezzlement is a serious crime. Historically, judges have done a poor job of punishing embezzlement as the serious crime that it is. The cases cited in defendant's sentencing commentary illustrate this point. Changes in the Sentencing Guidelines were intended to address the problem of under-punishment and increase the number of embezzlers going to prison.²

There is no question that this case is a prison case. On its face, without any aggravating factors, stealing over \$200,000 from a school district warrants a prison sentence. The only question for the Court is how much prison is sufficient to meet the goals of sentencing. Due to the numerous aggravating factors present in this case, the prison sentence should be at the highest end of the guidelines. The most salient aggravating factors are set forth here.

² See USSG, Part A.1.4(d) . . . the guidelines are to "reflect the general appropriateness of imposing a sentence other than imprisonment Under pre-guidelines sentencing practice, courts sentenced to probation an inappropriately high percentage of offenders guilty of certain economic crimes, such as theft, tax evasion, antitrust offenses, insider trading, fraud, and embezzlement, that in the Commission's view are "serious." (2018)

First, Brue stole from not one, but *two* different school districts. If he hadn't been caught by Meridian, Brue would have gotten away with stealing over \$75,000 from his first victim, the Bement school district. This is in addition to the more than \$200,000 that he stole from the Meridian School District.

Second, he committed these crimes - felony crimes - repeatedly. Every time Brue submitted a phony invoice and took money from the district, he committed a felony.³ Simply counting the invoices, Brue committed 78 federal felonies of which we are aware.

Third, the sheer duration of his crimes is confounding. Brue stole money from school districts for over *eight years*. The loss of school funding over so many years is death by a thousand papercuts. It is hard to quantify the what-ifs. Would a child have been excited by reading, or baseball, or the trumpet, if missed opportunities had been made available. What would it have meant to have grass, instead of dirt, on the baseball field? Instead of new textbooks or more teachers for Meridian (which is what the taxpayers paid for), Brue's family went shopping and took vacations.

Fourth, Brue was not paying for cancer treatment; rather, he stole this money out of pure greed. Already an above-average income-earner, he felt entitled to others' money. Hardworking taxpayers making far less than Brue lived within their own budgets while funding his spending. The school districts made hard choices and went without. As superintendent, Brue pretended to care about the school district's budget troubles,

³ See United States v. Garlick, 240 F.3d 789, 792 (9th Cir. 2001) ("each use of the wires constitutes a separate violation of 18 U.S.C. Sec. 1343')."

knowing full well that the large amount of money he was stealing was contributing to the deficits.

Fifth, when Brue was finally confronted by auditors, *he created a fake tax document* (W9), forging someone else's signature, to persuade the auditors that his made-up business had an EIN. If this were the *only* aggravating factor (and not one of at least six), this alone would merit a prison sentence at the highest end of the Sentencing Guidelines.

And lastly, when he knew that his crimes had been discovered, Brue urged his wife to act quickly to pay personal expenses with his school-district retirement, so the money would be gone if the victims came looking for it. Brue's letter to his wife expressed no remorse, apart from the remorse of being caught and the reputational consequences for Brue and his family. Whatever contrived remorse Brue may express at sentencing, the Court has a unique window into his true thought process.

In the end, actions speak louder than any words, including Brue's own words to his wife. Brue's actions are beyond the pale.

B. Deterrence

The sentence that the Court imposes will have a deterrent effect. It will deter others, who might be tempted to steal money from their employer, and it will deter the defendant himself. The defendant's putative suicide note reveals that he had thought about what would happen to him, were he to be caught. (*"That being said, your life is going to get a lot more complicated in the next few weeks, months, and possibly years."*)

As the Court is aware, sentences can have a stronger deterrent impact on those, such as Brue, who weigh risk and reward. It is much harder for the criminal justice system to deter other types of crimes; for example, crimes of violence. Adequate deterrence, both general and specific, supports a sentence at the highest end of the Guidelines.

C. Provide Defendant with Educational or Vocational Training, Medical Care, or Other Correctional Treatment in the Most Effective Manner

The United States is unaware of any educational, vocational, or medical needs that the Court needs to address through sentencing. It is unknown whether sociopathy/psychopathy is present in Brue's case; if it is, it may be a contributing factor in these crimes.

D. Nature and Circumstances of the Offense and History and Characteristics of the Defendant

In addition to the goals of sentencing, the Court must also consider the nature and circumstances of the offense and the history and characteristics of the defendant. 18 U.S.C. § 3553(a). The nature and circumstances of the offense are set forth above.

With respect to the history and characteristics of Defendant, the United States submits that his work history, two master's degrees, and privileged position in society are factors *in aggravation* in these crimes. The fact that he "enjoyed a stable childhood in a loving home where his parents taught him the importance of family, hard work, and helping others," is a factor *in aggravation* in this case. R. 25, Defendant's sentencing commentary, at 6.

In his sentencing commentary, Brue supports his argument for a low sentence by citing cases that are not factually similar to this case. Comparing this case with a factually similar case supports the sentence urged by the government.

The case of *United States v. Hudson*, 491 F.3d 590 (20007) involved an independent contractor, Joseph Hudson, who was hired to help a Michigan school district develop a television station for the high school. Hudson was friends with the school district's superintendent, and, with the superintendent's assistance, Hudson stole \$ 204,279 from the school district in three separate schemes between 1998 and 2000. Hudson inflated prices for work performed and submitted phony invoices for work never performed. A jury convicted him after a trial, and he was sentenced to 38 months in prison.

Hudson stole less money, from fewer victims, over a much shorter period. Hudson occupied a position of trust as an independent contractor, but he was not *the superintendent* of the school district. In addition, Hudson's case did not include the numerous aggravating factors present here. The sentence imposed on the facts of *Hudson* supports a 41 month sentence for Brue.

SENTENCING RECOMMENDATION
AND REQUEST THAT THE SENTENCE BE SERVED "FORTHWITH"

In exchange for his plea of guilty to four counts of wire fraud, a violation of 18 U.S.C. § 1343, the United States agreed to recommend a sentence within the guidelines range. The guideline range is 41-33 months, as calculated and agreed by both parties in the plea agreement. Plea Agreement, ¶ 18.

To support the goals of sentencing, and considering the nature of the offense and the character of the offender, the United States respectfully asks this Court to impose a sentence of 41 months, to be served forthwith, with a period of 5 years supervised release, no fine, \$400 in special assessments, and \$ **310,353.82** in restitution. The United States asks that this restitution be paid only to the school districts, as the victims within the meaning of 18 U.S.C. § 3663(A).

In addition, the United States urges the Court to order that the defendant leave the courtroom in handcuffs, to serve his prison sentence ‘forthwith.’ The forthwith order is a very important component of the sentence. Optics matter.

Leaving the courtroom in handcuffs sends a message to the defendant that cannot be sent another way. All along, Brue has been able to manipulate and control. Even when his crimes were discovered, he controlled how it would be disclosed to the school district and the timing of when he would turn himself into law enforcement. The defendant is a master manipulator and he needs to understand that his manipulation has come to an end. The Court must demonstrate that his conduct is unacceptable in society.

The handcuffs also send a message to the community. People watching the Court’s actions will identify the loss of liberty as punishment for harm done. It would be difficult to understand why the defendant remains out of custody, why seemingly nothing changed before and after sentencing, and why the defendant would be permitted to turn himself in at a later date, when he knew the date of the sentencing hearing. Indeed, Brue and his attorney have known since March 11, 2021, that the United States would ask the Court to impose a forthwith sentence. Brue has had more than enough time to get his

affairs in order. The United States respectfully requests that Brue be taken from the courtroom in handcuffs.

Respectfully submitted,

DOUGLAS J. QUIVEY
ACTING UNITED STATES ATTORNEY

s/ Melissa Moody

Melissa Moody, Bar No. ID 6027
Assistant United States Attorney
201 S. Vine St., Suite 226
Urbana, IL 61802
Phone: 217/373-5875
Fax: 217/373-5891
melissa.moody@usdoj.gov

CERTIFICATE OF SERVICE

I hereby certify that on July 12, 2021, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to counsel of record.

s/ Melissa Moody

Melissa Moody, Bar No. ID 6027
Assistant United States Attorney
201 S. Vine St., Suite 226
Urbana, IL 61802
Phone: 217/373-5875
Fax: 217/373-5891
melissa.moody@usdoj.gov