

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF IOWA

3 UNITED STATES OF AMERICA,)
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9 APPEARANCES:

10 ATTORNEY DANIEL AARON CHATHAM, Assistant U.S. Attorney,
11 111 Seventh Avenue S.E., Box 1, Cedar Rapids, Iowa 52401,
12 appeared on behalf of the United States.

13 ATTORNEY DAVID E. MULLIN, of the firm of Mullin &
14 Laverty, 1636 42nd Street N.E., Cedar Rapids, Iowa 52402,
15 appeared on behalf of the Defendant.

16

17 SENTENCING HEARING,
18 HELD BEFORE THE HON. LINDA R. READE,
19 on the 19th day of June, 2014, at 111 Seventh Avenue
20 S.E., Cedar Rapids, Iowa, commencing at 8:55 a.m., and
21 reported by Patrice A. Murray, Certified Shorthand
22 Reporter, using machine shorthand.

23 Transcript Ordered: 7/2/14
24 Transcript Completed: 7/17/14

25 Patrice A. Murray, CSR, RPR, RMR, FCRR
 United States District Court
 111 Seventh Avenue S.E., Box 4
 Cedar Rapids, Iowa 52401-2101
 (319) 286-2338

INDEX

EXHIBITS

1 (The following was held in open court.)

2 THE CLERK: In Criminal Matter 13-2040, United
3 States of America versus Adam Lawin, on for sentencing.
4 The United States Probation Office is represented by Jill
5 Bushaw.

6 Counsel, please state your appearances.

7 MR. CHATHAM: Dan Chatham appearing on behalf
8 of the United States of America.

9 MR. MULLIN: Dave Mullin appearing on behalf of
10 the defendant, Adam Lawin, who is present.

11 THE COURT: Mr. Lawin, do you recall being in
12 court on February 10, 2014, and pleading guilty to Count
13 1 of the indictment, charging you with conspiracy to
14 distribute MDMA, a controlled substance?

15 | THE DEFENDANT: Yes, Your Honor.

16 THE COURT: At the time your plea was given,
17 did the judge talk to you about the statutory provisions
18 that apply to a conviction of this offense?

19 | THE DEFENDANT: Yes, Your Honor.

20 THE COURT: You can spend up to 20 years in
21 federal prison, followed by a supervised release term
22 that must be at least 3 years and could be for the rest
23 of your life. Probation is an option. Were it granted,
24 it would be 1 to 5 years in duration. Your fine could be
25 as much as \$1 million. You could be required to make

1 community restitution. Your special assessment would be
2 \$100.

3 Do you remember the judge talking to you about these
4 provisions?

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: And, in fact, did Mr. Mullin go
7 through these with you prior to the day that you pled
8 guilty before Judge Scoles?

9 MR. MULLIN: Judge, actually, I'm substitute
10 counsel.

11 THE COURT: Okay.

12 MR. MULLIN: He had prior counsel, so I was not
13 present at the plea hearing.

14 THE COURT: All right. Who was your prior
15 counsel?

16 THE DEFENDANT: Max Wolson.

17 THE COURT: All right. Did Mr. Wolson go
18 through these provisions with you prior to the time that
19 you entered your plea of guilty?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: Do you understand that you are in
22 court today for the purpose of being sentenced on your
23 plea of guilty?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: Is your plea still guilty?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: The Court has received and read the
3 Presentence Investigation Report. It's filed as
4 Document 75 in the records of the court, current as of
5 May 28, 2014. The Court has read the documents filed by
6 the attorneys on behalf of their respective clients.

7 And I see that the government has marked an exhibit,
8 Government Exhibit No. 1. Would you like to make a
9 record on that, Mr. Chatham?

10 MR. CHATHAM: Yes, Your Honor. And I think,
11 if -- if it works for the Court, I think that helps make
12 the record with respect to the government's objections
13 and the position on the issues in the Presentence Report.

14 THE COURT: Yes.

15 MR. CHATHAM: So the government would offer
16 Government's Exhibit 1, and we would offer it under seal.

17 THE COURT: And it appears to be a document
18 signed not only by Mr. Chatham but also Adam Lawin and
19 Mr. Mullin.

20 Any objection, Mr. Mullin?

21 MR. MULLIN: No, Your Honor.

22 THE COURT: All right. It is received under
23 seal.

24 (Whereupon, Exhibit 1 was received.)

25 MR. CHATHAM: Your Honor, in this case, there's

1 been sort of an ongoing discussion since the initial
2 interview back in February as to assets, and so at the
3 time there was no agreement that was reached between the
4 parties as to a number of different guideline issues,
5 including with respect to whether acceptance applied,
6 whether there could be a fine, and, essentially, the
7 question of whether there were hidden assets in this
8 case.

9 We've continued to work on those issues throughout
10 the pendency of this matter. And then, this past week,
11 the parties have reached a resolution, including that --
12 the resolution that would grant the defendant 1B1.8
13 protection for the information provided in that interview
14 back in February. That -- on the basis of that
15 agreement, that sort of changes the calculus of the
16 guidelines as calculated by the Probation Office in the
17 final Presentence Report.

18 And as noted in Government's Supplemental Sentencing
19 Memorandum filed at Docket 90, essentially, we're back to
20 where Ms. Bushaw had initially scored out the guidelines:
21 A base offense level of 30; 2-level increase for the --
22 for role; a 2-level increase for importation of a
23 controlled substance; and back to a 3-level reduction for
24 acceptance. Because the additional drug quantity that
25 was assessed in the final Presentence Report was based on

1 that interview, which is now 1B1.8 protected, we're no
2 longer asserting that that should be used in calculating
3 the guidelines.

4 Additionally, there was a 2-level increase for use
5 of a mass marketing device, basically, to sell drugs over
6 the internet. And there was some indication of that
7 going on in the items that were seized at the search, but
8 in the government's estimation, it was not sufficient to
9 prove that 2-level increase. Most of that was based off
10 of the interview of the defendant, where there was a
11 direct admission that that's how these drugs were being
12 sold.

13 So because that is now 1B1.8 protected, those
14 statements, we are also no longer seeking -- or saying
15 that the evidence is sufficient to support the 2-level
16 enhancement independent of the defendant's statements.
17 And so that 2 levels under 2D1.1(b) (7) would no longer
18 apply.

19 Additionally, as part of the sentencing agreement
20 here, the defendant has agreed to a money judgment, which
21 the Court has already entered the order of forfeiture on
22 the money judgment in the amount of \$100,000.

23 That has -- based on the defendant's admissions and
24 the ongoing discussions, the government is withdrawing
25 the objection to obstruction of justice, which was based

1 on the potential that the defendant was not being honest
2 with the Court and the Probation Office about his assets.

3 And then also, with respect to the acceptance of
4 responsibility, the obstruction issue, had that been
5 pursued, that would have impacted the government's
6 position on acceptance of responsibility, as well as the
7 separate issue with respect to the defendant's conduct in
8 the jail, with possessing contraband in the jail, the --
9 contraband controlled substances and contraband alcohol.
10 Basically, we've come to the agreement that that's an
11 issue that the Court can consider. The alcohol and the
12 contraband is an issue the Court can and should consider
13 with where to sentence the defendant within the range.
14 The government is no longer asking the Court to deny
15 acceptance of responsibility on the basis of that
16 conduct.

17 I do believe -- I believe that covers the agreement
18 between the parties. So, in the end, the government
19 believes that the base offense level should be a 30.
20 There should be a 2-level increase for importation of a
21 controlled substance, 2-level increase for role in the
22 offense, 3-level reduction for acceptance of
23 responsibility, assuming the defendant does not otherwise
24 deny acceptance -- or deny any material issues here in
25 the Court, which would result in a 3-level -- or a total

1 offense level of 31, a criminal history category III, and
2 an advisory guideline range of 135 to 168 months
3 imprisonment.

4 And I believe, in the government's initial
5 sentencing memorandum, there was also a discussion --
6 well, I don't "believe." There was an initial
7 discussion. Essentially, the government's position in
8 this case -- as in most drug cases, it is our position
9 that the defendant should receive a downward variance in
10 the equivalent of a 2-level adjustment under the
11 guidelines based on the forthcoming -- the anticipated
12 changes in the United States sentencing guidelines. So
13 we would assert that as well, which is sort of
14 independent of the sentencing cooperation agreement in
15 this case.

16 THE COURT: Well, this case has had an
17 interesting procedural history in the sentencing portion.
18 Ms. Bushaw wrote the Presentence Investigation Report
19 draft. It's my understanding that, thereafter, there was
20 a proffer and all of these issues started arising. And
21 the government has now backed off of all of that, so
22 we're back to what Ms. Bushaw had originally calculated
23 in the draft report, which was Document 46, filed
24 March 27, 2014.

25 First, Mr. Mullin, have you and your client been

1 through the Presentence Investigation Report?

2 MR. MULLIN: We have, Your Honor.

3 THE COURT: And I understand -- and we'll talk
4 about it and I'll let you make your record on the
5 agreement that forms Government Exhibit 1, but can you
6 talk just a little bit about your interaction with your
7 client on the Presentence Investigation Report, how you
8 reviewed it and so on.

9 MR. MULLIN: Thank you, Judge. At the time of
10 my appointment in late April, Mr. Lawin had already
11 signed a noncooperation plea agreement but then had
12 proffered. The -- there was already a draft Presentence
13 Report issued at the time of my appointment, so I can't
14 really speak to what was done by prior counsel, but I
15 sent copies of that as well to Mr. Lawin.

16 I met with him personally at the Linn County Jail
17 and reviewed that, and together we came up with
18 objections to that draft, which we filed and which I sent
19 to Mr. Lawin. When we received the final Presentence
20 Report, likewise, that was something I shared and
21 discussed with Mr. Lawin.

22 THE COURT: All right. And any record that you
23 wish to make on Government Exhibit 1, which is the
24 June 12th cooperation and sentencing agreement?

25 MR. MULLIN: Judge, the government accurately

1 recites the terms of the agreement reached by the parties
2 in this matter.

3 THE COURT: All right. Thank you.

4 Does your client agree that the quantity of drugs
5 for which he should be held accountable is
6 847.60259 kilograms of marijuana-equivalent drugs,
7 resulting in a base offense level of 30?

8 MR. MULLIN: Yes, Judge.

9 THE COURT: All right. And what about this
10 situation in the jail? Does your client admit that he
11 had contraband in the jail when he was being held on
12 these charges?

13 MR. MULLIN: It's my understanding as part of
14 the agreement the parties agree that he possessed
15 something which was considered contraband by the jail.
16 There was a little vial, I believe, which contained a
17 certain amount of alcohol. There were prescription
18 medications as well. I think the contraband is the
19 extent of it.

20 He contested it at the time with the jail, but as
21 part of this agreement, we are no longer contesting that.

22 THE COURT: All right. Mr. Lawin, do you
23 remember receiving a copy of the Presentence
24 Investigation Report to read?

25 THE DEFENDANT: Yes, Your Honor.

1 THE COURT: And you have a college degree in
2 your background, so I'm making the assumption that you
3 were able to read the report with your own eyes and
4 understand what you were reading?

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: If you had any questions at all
7 about the report, did you have those answered by your
8 attorney?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: Then the Court does adopt the
11 calculation of the Presentence Investigation Report
12 draft, Document 46, starting at Page 6 and going on Page
13 6 and 7. The base offense level is a 30 based on
14 defendant's admission that he should be held accountable
15 for 847.6 kilograms of marijuana-equivalent drugs.

16 He didn't have anything to do with marijuana, but
17 the way the guidelines are set up, you have to convert
18 the MDMA, the hydrocodone and the methcathinone, to a
19 marijuana equivalent in order to arrive at the base
20 offense level quantity.

21 There's a 2-level increase because defendant was
22 directly involved in the importation of a controlled
23 substance.

24 A 2-level increase because he was an organizer,
25 leader, manager, or supervisor in criminal activity.

1 That gives us an adjusted offense level of 34. The
2 government has indicated they have no objections now to
3 acceptance of responsibility. So that's a 3-level
4 decrease.

5 Total offense level 31, criminal history III. This
6 results in a guideline range of imprisonment of 135 to
7 168 months, followed by a supervised release term of at
8 least 3 years and up to the rest of his life. Probation
9 is not recommended under the guidelines. The fine,
10 15,000 to \$1 million. \$100 special assessment, which
11 Ms. Bushaw indicates was paid on June 18th.

12 The Court then is ready to hear from the attorneys
13 and Mr. Lawin, if he wishes to speak, as to what the
14 appropriate disposition should be.

15 And I'll start with the government. You've already
16 talked about the variance. I always find this an
17 interesting situation, because my understanding was the
18 Attorney General instructed the courts -- or the US
19 Attorneys' Offices nationwide not to object to a
20 variance, and now I find that the government is urging
21 the variance.

22 I'm not going to grant it. You can argue about it
23 all you want, but my position on this has been made
24 clear, and I'll dictate it into the record again. But
25 any other issues that you want to talk about in terms of

1 where within the range or any other variance arguments?

2 MR. CHATHAM: Thank you, Your Honor. Prior to
3 making that record, the government does have a record to
4 make under seal, and we would ask that it be done at
5 sidebar.

6 THE COURT: All right. And I'll invite
7 Mr. Lawin, then, to put on the headphones that are at
8 counsel table so he can hear what's being said, but
9 people in the gallery will not be able to hear.

10 (A discussion was held at sidebar and sealed by the
11 Court.)

12 (The following was held in open court.)

13 THE COURT: All right. Mr. Chatham, any other
14 record on disposition?

15 MR. CHATHAM: Yes, Your Honor. In this case,
16 the United States is asking that the Court sentence the
17 defendant at the top of the applicable guideline range,
18 and there are many reasons for that here. The first is
19 the nature of this particular offense. This is a
20 defendant who, by all accounts in the Presentence Report,
21 was attempting to set himself up as a major distributor
22 of powder MDMA in the United States as a waypoint between
23 the drugs that were coming from Europe and that -- he was
24 setting himself up to distribute massive quantities of
25 this drug, all through an anonymous, highly sophisticated

1 network of on-line customers and dealers.

2 This is a situation where the defendant had been
3 doing this for some time, according to the information in
4 the draft Presentence Report.

5 And then I think what's also interesting here is the
6 defendant's -- I think you get a sense of the defendant's
7 mindset with respect to the sale of drugs, the sale of
8 these drugs in particular based off of the other
9 information that was found in the defendant's residence
10 when it was searched. We have the -- a manual for
11 "Practical LSD Manufacture" by Uncle Fester, which is
12 basically a how-to manual on how to manufacture LSD and
13 to avoid detection by law enforcement.

14 There was -- there were printed articles about
15 ordering drugs through Silk Road. Printed articles about
16 various other -- creation of other drugs, how to do so,
17 which I think, in light of the defendant's chemistry
18 background, as a chemistry major in college, it makes
19 sense. This defendant was looking for ways to either --
20 to make drugs and sell drugs and make money off of the
21 sale of drugs to other folks. And I think most
22 interesting here is the defendant's article or book that
23 he had written. There was a draft found, that -- as far
24 as using and how to use bitcoins in the illicit on-line
25 drug market. This isn't a -- this is not a defendant who

1 sort of passively got involved in buying some drugs
2 on-line. This is someone who is attempting to not only
3 do it himself, but he's attempting to educate others on
4 how to do this. And I think that's pretty important in
5 this case as to the defendant's mindset, where he was at
6 and where he may still be at, as far as the problem with
7 drugs being distributed in the United States and other
8 places and the effects that that actually has on a
9 community.

10 We would also ask the Court to consider the issues
11 in the jail with the defendant. Obviously, the
12 government initially flagged that as something being
13 questionable of acceptance of responsibility. We're
14 asking that the Court here take it into account for where
15 within the range.

16 I think it's also important, when we consider the
17 defendant's conduct prior to coming into custody, where
18 his mind was as far as authority and drugs and how that
19 all should be viewed, I think, in society; that when he
20 goes into custody, he's still refusing to follow the
21 rules with respect to drugs. We believe they were his
22 own medications that he possessed as contraband, but
23 again, in the jail, he's required to follow the rules.
24 If he's given medication, he's required to take it. He
25 didn't do so. He smuggled it back into his cell. And

1 then there's also this alcohol that -- sort of the hooch
2 alcohol that was found in his cell. I think that's
3 important, again, as to this defendant's ongoing respect
4 for the law issues, which also crop up in his criminal
5 history, which dates back to age 16 with a theft third
6 adjudication; and then at age 19, the theft second,
7 burglary third, and possession of burglary tools; the two
8 operating while intoxicated convictions, which I think is
9 important, in Paragraph 25. He initially denied having
10 even driven the vehicle. He was then -- gave a breath
11 sample that registers a .127, and then he physically
12 resists the officers when they try to put him into
13 custody and had to be restrained by several officers at
14 the time. And then again, in the failure to disburse
15 conviction in Paragraph 26, we have the defendant
16 involved in a fight and then using profane language and
17 refusing officer's directives to leave the area.

18 I think sort of there's an ongoing pattern of
19 disrespect for the law for this defendant, and all of
20 those factors I believe warrant a sentence at the top of
21 the range for this particular defendant.

22 THE COURT: Mr. Mullin.

23 MR. MULLIN: Thank you, Judge. Before getting
24 into the issue, Your Honor asked the government about its
25 motion for a 2-level downward variance because of the

1 proposed change in the drug guidelines. For the record,
2 of course, we join in that request, Your Honor. We do
3 have Your Honor's ruling.

4 In my sentencing memo, I suggested an alternative,
5 which is the Court can nearly finish up but not pronounce
6 sentence today, grant a continuance, and certainly impose
7 sentence after November 1st, which I think the first
8 court day is November 3rd, as a way of allowing Mr. Lawin
9 to have the benefit of the change in the law, and we want
10 to make that of record.

11 As far as where within the guideline, Judge, the --
12 I'm a little surprised by the government's recommendation
13 for top of the guideline range. I think the reasons
14 articulated by the government have already been taken
15 into account in arriving at the guideline that he's in.
16 Thus, the use of internet, lead role, his past criminal
17 conduct, has already been taken into account, if you
18 will, in arriving at the guideline. To additionally then
19 go to the top of the guideline range is to completely
20 discount and give no weight whatsoever to the matters
21 that we discussed at sidebar.

22 I would respectfully correct the government.
23 Mr. Lawin's college degree, I believe, is a biology
24 degree and not a chemistry degree. But the government's
25 point is taken, that Mr. Lawin does have a college

1 education. I think that can also cut in Mr. Lawin's
2 behavior [sic]. Obviously, if he has a complete
3 inability to deal with authority, it's inconceivable that
4 he could have gotten a college degree in the sciences,
5 which is all about following the rules of science and
6 showing up and taking tests and participating in class.
7 And he was able to do that.

8 Secondly, it's the kind of person who, after he gets
9 out, Your Honor has perhaps less concern with than
10 someone who has no skills, who has no education; will
11 they be able to comply with terms of supervised release
12 and integrate themselves into lawful society. He
13 certainly has shown, not consistently, but he has shown
14 an ability to do what we expect of society, which is, go
15 to school, get the highest education you can attain, and
16 obtain employment, which is what he did.

17 Finally, not mentioned I think by the government is
18 that a punishment is being visited on this particular
19 defendant not typical in cases before Your Honor, in that
20 he's -- he has a judgment against him for \$100,000, which
21 he agreed to. And that, I think, is something the Court
22 can consider in overall punishment of the defendant, what
23 other punishments -- what other consequences have been
24 visited upon this defendant.

25 And so for all those reasons, Judge, we're asking

1 for a sentence at the bottom of the guideline range of
2 135 months. Thank you.

3 THE COURT: Mr. Lawin, this is the time in the
4 proceeding when you have a chance to speak. You do not
5 have to say anything unless you want to.

6 (Whereupon, counsel conferred with the
7 defendant.)

8 THE DEFENDANT: No, thank you, Your Honor.

9 THE COURT: All right. Then the Court is ready
10 to make its findings. In arriving at a disposition, the
11 Court has carefully considered each and every factor
12 under 18 United States Code Section 3553(a). I'm not
13 going to discuss each and every factor, but rest assured,
14 each has been considered.

15 The government is requesting a variance based on the
16 assertion that the Sentencing Commission has fairly
17 recently voted to lower the base offense level computed
18 under the advisory guidelines by 2 levels for drug
19 crimes. And I'm aware of my power to vary from the
20 advisory guideline range after considering the factors at
21 18 United States Code Section 3553(a). The Court's goal
22 is to arrive at a sentence that is sufficient but not
23 greater than necessary to achieve the goals of
24 sentencing.

25 It goes without saying that when I'm making

1 sentencing decisions, I am required to start with the law
2 in effect at the time of sentencing. To vary solely
3 because of the anticipation that the law may change in
4 the future is, in this Court's opinion, inadvisable, and
5 I decline the invitation to do so.

6 The advisory guideline sentence in this case has
7 been computed using the advisory guidelines voted on by
8 the Sentencing Commission and not rejected by Congress --
9 Congress makes the law -- in the last cycle, which ended
10 November 1, 2013. New advisory guidelines have been
11 proposed in this cycle, but they do not become law until
12 the United States Congress has the opportunity to review
13 them.

14 Keep in mind that this country is founded on a
15 system where there are three branches of government:
16 Legislative, Executive, and Judicial. And Congress is
17 the one who makes the law, not judges and not the
18 Attorney General of the United States. This change to
19 the guidelines may or may not be rejected by Congress.
20 They have until November the 1st, 2014, to make that
21 decision.

22 If I were to grant this variance solely on someone's
23 prediction that the law will change November 1, 2014,
24 that would require me to blatantly violate one of the
25 sentencing factors set by Congress in 18 United States

1 Code Section 3553(a). I would be creating unwarranted
2 sentence disparities by taking at face value the hopes
3 and guesses about the future of sentencing law. And, in
4 my opinion, that would be grossly unfair to those
5 defendants already sentenced under the existing law, and
6 those are the individuals that are sitting in prison now
7 that were sentenced. And I'm just simply not going to do
8 that. So the motion for variance is denied.

9 Talking more particularly about the guideline -- the
10 factors at 3553(a) that apply, the Presentence
11 Investigation Report does a great job of setting forth
12 for the Court those pieces of information that are
13 helpful in making a decision. The nature and
14 circumstances of the offense are set forth in great
15 detail -- as much detail, I should say, as we have in the
16 Presentence Report.

17 This is not a typical drug case. In the typical
18 drug case, you do not have an individual trying to set up
19 a major drug dealing network between the United States
20 and persons outside the United States. This is an
21 extremely sophisticated scheme for drug distribution.
22 And I agree with Mr. Chatham, an unusual amount of
23 attempt to educate others on how to deal drugs in this
24 anonymous on-line market.

25 In terms of the history and characteristics of the

1 defendant, he's age 25, he's single, he has no
2 dependents. He has a college degree. His -- the history
3 of him growing up is in the Presentence Report and has
4 been considered, as has his mental and emotional issues
5 that started at age 12.

6 He obviously has a problem with alcohol: Two
7 convictions for operating while intoxicated and one for
8 public intoxication. The Court mentions these because
9 these are very serious offenses that put at risk the
10 safety of people in the community, not only those who are
11 out on the roadways and the sidewalks, but the law
12 enforcement officers who have a sworn duty to keep drunk
13 drivers off the road.

14 The Court has noted that he has a history of legal
15 employment, but it's very sporadic and has not been for
16 long periods of time in any one particular spot. He will
17 have to have full-time, lawful employment that can be
18 verified while he's on supervised release, so he will
19 need to decide what skills he wants to pursue and pursue
20 those lawfully when he comes out.

21 He has a history of using controlled substances.
22 Really, all of them or the major ones, except heroin. I
23 don't see that here. He failed to appear for one random
24 drug test while he was on pretrial release. His other
25 more serious conduct is failure to follow the rules in

1 the Iowa County Jail while he was being held on these
2 federal charges by having in his cell things that were
3 contraband and being involved at least in possessing, if
4 not making, alcoholic beverages.

5 I'm sure the Bureau of Prisons is going to find this
6 very interesting. They're going to be watchful of him,
7 because he obviously has no respect for the rules in the
8 jail. And I think that his criminal behavior in the
9 past, starting as a teenager, bears that out as well.

10 I did consider the information brought to my
11 attention at sidebar, but I don't think it was a
12 significant amount of information. It was very general.
13 And most of the information that we know about this
14 particular operation could be gleaned from the materials
15 that were found in the search warrant, the fact that he
16 was using this anonymous on-line Silk Road. There was no
17 specific information that was provided, even though that
18 information was known to law enforcement and has resulted
19 in another prosecution.

20 He also may have a gambling problem. He relates in
21 his presentence interview that at some point he was a
22 daily gambler. I bring this up because gambling,
23 controlled substance use, alcohol abuse, are all really
24 part of the same behavioral pattern and addiction, and it
25 may be necessary to work on that at some time in the

1 future.

2 The Court will be imposing a sentence today that
3 will reflect the seriousness of the offense, promote
4 respect for the law, provide just punishment, afford
5 adequate deterrence to criminal conduct, protect the
6 public from further crimes of the defendant, and provide
7 the defendant with needed education or vocational
8 training, any medical care or other correctional
9 treatment in the most effective manner.

10 I also will be sentencing to avoid unwarranted
11 sentence disparities among defendants with similar
12 records found guilty of similar conduct. That is a more
13 difficult undertaking in this case where the facts and
14 circumstances of the offense are atypical of the general
15 drug dealer that we get in this district, and, really,
16 across the country.

17 So I am going to take the nature and circumstances
18 of the offense into consideration in deciding on a
19 sentence. It's not going to be at the bottom of the
20 range. I also am taking into account his behavior at the
21 Iowa County Jail, which is totally unacceptable.

22 So it is the judgment of the Court that Adam Lawin
23 is hereby committed to the custody of the Bureau of
24 Prisons to be imprisoned for a total term of 147 months.
25 The Court finds 147 months is the sentence that is

1 sufficient but not greater than necessary to achieve the
2 goals of sentencing.

3 I make a number of recommendations to the Bureau of
4 Prisons. First, that he be designated to a Bureau of
5 Prisons's facility in close proximity to his family,
6 commensurate with his security and custody classification
7 needs.

8 I recommend that he participate in the Bureau of
9 Prisons's 500-hour Comprehensive Residential Drug Abuse
10 Treatment Program or an alternate substance abuse
11 treatment program.

12 I recommend that he participate in the Bureau of
13 Prisons's Vocational Training Program, specializing in
14 the culinary arts.

15 Mr. Lawin, upon your release from imprisonment, you
16 will be on supervised release for a term of 5 years on
17 Count 1. Within 72 hours of release from custody of the
18 Bureau of Prisons, you shall report in person to the
19 Probation Office in the district to which you are
20 released. While you are on supervised release, you must
21 comply with the standard conditions of supervision.

22 Those will be set out in the judgment order.

23 In addition, you must not commit any federal, state,
24 or local crimes. You shall not illegally possess a
25 controlled substance. You shall not possess a firearm,

1 ammunition, a destructive device, or any dangerous
2 weapon. You must cooperate in the collection of a DNA
3 sample.

4 Please remember that you are a convicted felon. One
5 of the things that means is that you cannot lawfully
6 possess for any reason a firearm or ammunition. And this
7 prohibition continues for the rest of your life.
8 Frankly, with your criminal history, were you to be found
9 in possession of a firearm or ammunition, be convicted,
10 and come up for sentencing, you would receive a very
11 significant sentence, possibly a sentence even longer
12 than the one I am imposing today. So the best thing to
13 do is to have nothing to do with firearms or ammunition.

14 While you are on supervised release, you must comply
15 with the following special conditions:

16 First, you must participate in and successfully
17 complete a program of testing and treatment for substance
18 abuse.

19 Second, you cannot use -- or you must not use
20 alcohol, nor enter bars, taverns, or other establishments
21 whose primary source of income is derived from the sale
22 of alcohol.

23 Third, you must participate in a mental health
24 evaluation and/or treatment program and take all
25 medications prescribed to you by a licensed psychiatrist

1 or a physician.

2 Fourth, if you are not employed at a regular lawful
3 occupation as deemed appropriate by the United States
4 Probation Office, then you must participate in employment
5 workshops and report as directed to the United States
6 Probation Office to provide verification of daily job
7 search results or other employment-related activities.
8 In the event you fail to secure employment, participate
9 in the employment workshops, or provide verification of
10 daily job search results, you may be required to perform
11 up to 20 hours of community service per week until you
12 are employed.

13 Fifth, you'll be subject to the standard search
14 conditions of this court. Any search will be based on
15 reasonable suspicion and conducted in a reasonable
16 manner. The specifics of the condition will be set out
17 in the judgment order.

18 Sixth, any computer and/or electronic storage device
19 that you own or have access to will be subject to random
20 or periodic unannounced monitoring by a United States
21 probation officer. The specifics of the condition will
22 be set out in the judgment order.

23 I find you do not have the ability to pay a fine or
24 make community restitution based in large part on the
25 judgment that has been entered against you for \$100,000.

1 I order that you pay to the United States a special
2 assessment of \$100. That's due and payable immediately.
3 And I note it was paid June 18, 2014, and the judgment
4 will so reflect.

5 Pursuant to 18 United States Code Section
6 3143(a)(2), you are hereby remanded to the custody of the
7 United States Marshal.

8 I think Count 2 is still out there.

9 MR. CHATHAM: The United States moves to
10 dismiss Count 2 pursuant to the plea agreement.

11 THE COURT: It is dismissed as to this
12 defendant.

13 Mr. Lawin, I'm now going to talk to you about your
14 rights to appeal if you disagree with this judgment and
15 commitment. You have a right to appeal to a higher
16 court. The name of that court is the United States Court
17 of Appeals for the Eighth Circuit. This is how you would
18 appeal. You would file a written notice of appeal with
19 the Clerk of Court here in the United States District
20 Court for the Northern District of Iowa at Cedar Rapids,
21 Iowa. If you do not file a written notice of appeal
22 within the next 14 days, you forever give up your right
23 to challenge this judgment and sentence. If you would
24 like to appeal and you cannot afford the services of an
25 attorney, the Court will appoint an attorney to represent

1 you on appeal.

2 Mr. Lawin, do you have any questions about anything
3 I talked about today?

4 THE DEFENDANT: No, Your Honor.

5 THE COURT: Mr. Mullin, anything else on this
6 case, sir?

7 MR. MULLIN: No, thank you, Your Honor.

8 THE COURT: Mr. Chatham?

9 MR. CHATHAM: No, Your Honor.

10 THE COURT: This concludes the hearing. Thank
11 you.

12 (Proceedings concluded at 9:43 a.m.)

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1 C E R T I F I C A T E
2

3 I, Patrice A. Murray, a Certified Shorthand
4 Reporter of the State of Iowa, do hereby certify that at
5 the time and place heretofore indicated, a hearing was
6 held before the Honorable Linda R. Reade; that I reported
7 in shorthand the proceedings of said hearing, reduced the
8 same to print to the best of my ability by means of
9 computer-assisted transcription under my direction and
10 supervision, and that the foregoing transcript is a true
11 record of all proceedings had on the taking of said
12 hearing at the above time and place.

13 I further certify that I am not related to or
14 employed by any of the parties to this action, and
15 further, that I am not a relative or employee of any
16 attorney or counsel employed by the parties hereto or
17 financially interested in the action.

18 IN WITNESS WHEREOF, I have set my hand this 17th day
19 of July, 2014.

20 /s/ Patrice A. Murray

21 Patrice A. Murray, CSR, RPR, RMR, FCRR
22 United States District Court, NDIA
23 111 Seventh Avenue S.E., Box 4
24 Cedar Rapids, Iowa 52401-2101
25

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