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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MISSISSIPPI

UNITED STATES OF AMERICA . Cause No. 3:07CR192
. .
Plaintiff . Oxford, Mississippi
. June 27, 2008
v. . 2:00 p.m.
. .
SIDNEY A. BACKSTROM .
. .
Defendant .
.

SENTENCING AS TO COUNT 1 OF THE INDICTMENT
BEFORE THE HONORABLE NEAL B. BIGGERS
U.S. SENIOR DISTRICT JUDGE

APPEARANCES:

For the Government: United States Attorney's Office
Northern District of Mississippi
BY: THOMAS W. DAWSON, ESQ.
BY: ROBERT H. NORMAN, ESQ.
BY: DAVID A. SANDERS, ESQ.
900 Jefferson Avenue
Oxford, Mississippi 38655-3608

For the Defendant
Sidney A. Backstrom:
FRANK W. TRAPP, ESQ.
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Proceedings recorded by mechanical stenography, transcript
produced by computer.

1 (CALL TO ORDER OF THE COURT)

2 THE COURT: All right. Mr. Trapp, are you ready to
3 proceed on the sentencing of your client?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: Is the Government ready to proceed,
6 Mr. Sanders?

7 MR. SANDERS: Yes, Your Honor.

8 THE COURT: All right. In this, as in this morning's
9 proceedings, the Court has looked at the written comments that
10 the defendant has made to the presentence report and at the
11 response of the Government to the objections by the defendant.
12 I can rule on them as they're -- have already been made and as
13 the record stands from your memorandum; or if you want to make
14 any brief comments in addition to what's in the record, you'll
15 be given some time to do so. Do you want to make any comments
16 in addition to what's already in the record, Mr. Trapp?

17 MR. TRAPP: No, Your Honor.

18 THE COURT: Mr. Sanders?

19 MR. SANDERS: No, sir, Your Honor.

20 THE COURT: All right. Well, the Court, then, adopts
21 the findings of fact and the conclusions of law and the
22 computations of the presentence report. And based on those
23 computations -- first, though, the rulings on the objections
24 that were made in the objections of Dickie Scruggs will also
25 apply to the objections made in the case of Sidney Backstrom.

1 And the record will reflect that the rulings made this morning
2 are adopted as the rulings made in this case. Do you have a
3 copy of that document you gave me a few minutes ago?

4 MR. EAST: (Passing document.)

5 THE COURT: Thank you. And the Court finds,
6 therefore, that based on the intended benefit, the amount of
7 \$400,000, the offense level in this case is 29. The criminal
8 history of this defendant is one, which means there is no
9 criminal history. The imprisonment range is 87 to 180 months.

10 Of course, the Court is restricted somewhat on that range,
11 restricted quite a bit on it, actually, based not only on the
12 statutory maximum but on the -- if the Court accepts the
13 presentence -- the plea negotiation. And that the supervised
14 release under these guidelines is two to three years, the fine
15 range is 15,000 to 150,000 dollars.

16 Now, is there anything else we need to take up before the
17 Court asks for any statements from the parties?

18 MR. TRAPP: Your Honor, I assume the Court will
19 accept the plea agreement? And that's been my understanding, I
20 just --

21 THE COURT: Well, I haven't done that; but I plan on
22 doing it, yes.

23 MR. TRAPP: Yes, sir.

24 THE COURT: So is there anything else you want to
25 state?

1 **MR. TRAPP:** No, Your Honor.

2 **THE COURT:** Well, let your client come up, then.

3 (Parties complying.)

4 **THE COURT:** All right, Sidney Backstrom, you stand
5 before the Court. You've entered a plea of guilty to Title 18
6 of the United States Code, Section 371, which is the conspiracy
7 to commit bribery of an elected state official. You're up
8 before the Court now for sentencing on that charge. Is there
9 anything you want to state to the Court before sentencing?

10 **THE DEFENDANT:** Yes, Your Honor. Your Honor, I want
11 to express my profound sorrow to my family, to this Court, and
12 the Bar for my involvement in the actions leading to these
13 pleadings. I have been haunted by the events leading to my
14 indictment every day, since late November, and will likely be
15 for the rest of my life.

16 I have cried with my wife and my children too many times
17 to count. That punishment, along with always wondering of the
18 damage I've caused to my family and three children, will never
19 leave me. For the sake of my family and children who rely on
20 me, I ask that you exercise the most discretion allowed you in
21 consideration of the plea agreement offered. Thank you.

22 **THE COURT:** Mr. Trapp?

23 **MR. TRAPP:** Your Honor, I'd like to make just a few
24 comments; and then Mr. Tannehill will make just a few more.
25 It'll be brief, Your Honor. As a preliminary matter, I request

1 that Mr. Backstrom be allowed to voluntarily report to the
2 institution, that he be given 30 days to pay any fine. And we
3 ask the Court to recommend to the Bureau of Prisons that he be
4 sent to Forrest City, Arkansas; which is, I'm told,
5 approximately an hour and a half drive from here. And
6 Mr. Backstrom's wife has family in Arkansas that's accessible
7 to that, if the Court would consider doing that. We understand
8 that the Bureau is not bound by that.

9 Your Honor, I'd also like to take this opportunity to
10 express appreciation to the friends, lawyers, neighbors, and
11 family for speaking up for Mr. Backstrom and the letters that
12 they have sent to you. I point out that the lawyers who have
13 dealt with Mr. Backstrom and addressed the Court noted that the
14 events in this case were out of character and said many nice
15 things about his professionalism, his courtesy, his civility in
16 dealing with them and describing him as a person who was always
17 a man of his word.

18 Your Honor, I would respectfully suggest to this Court
19 that as a parting effort for our profession, since
20 Mr. Backstrom himself has pled guilty, that he's conducted
21 himself with dignity. He's exercised the proper deep remorse
22 and contrition with respect for this Court, for the United
23 States Attorney's Office, for the Mississippi Bar, and for the
24 public and the community at large.

25 Lastly, as the Court observed this morning, there is a

1 great sadness about this case; and I think that definitely
2 applies to Mr. Backstrom. I know that he carries a deep sorrow
3 for his conduct in this case, the pain and concern of his
4 family -- and I feel like he would say and authorize me to say
5 that if this event can serve as a message to other young
6 lawyers that they should forever remain vigilant, no matter
7 what their station, of the ethical obligations and the oath of
8 office which they take in order to have -- hope to have the
9 privilege to practice law. Thank you, Your Honor.

10 THE COURT: All right. Thank you.

11 MR. TANNEHILL: Your Honor, may I add some things in
12 addition to that?

13 THE COURT: You may briefly.

14 MR. TANNEHILL: Thank you. I stand before you today,
15 Your Honor, in a very unusual situation, not just as Sid
16 Backstrom's lawyer but also as his friend. Not just a
17 relationship or friendship that we formed since I began
18 representing him in this case, but I've known Sid and his wife
19 Kelly and his kids since they moved here to town from the coast
20 to work with their firm -- with his firm.

21 We first met one day, and we ended up belonging to the
22 same men's Bible study together. We've met every Tuesday now
23 for several years where we study the Bible and pray for one
24 another. It's a support group for men, and something that we
25 both very much enjoy.

1 And as long as I live, I will never forget the feeling
2 that I had that day when I met in the Government's office, and
3 they told me about the facts of this case and the actions of my
4 brother, Sid Backstrom.

5 I don't know why or -- nor will I ever know why Sid
6 participated or was involved in such a terrible situation. And
7 nor do I pretend to understand it. But I do know this, Your
8 Honor, and I want to pass along, that he is truly remorseful.
9 And I think that his remorse showed in those letters that were
10 submitted on his behalf to the Court.

11 Another thing that I think that showed through in those
12 letters to the Court is that Sid Backstrom is a caretaker. He
13 cares for his grandmother, his elderly grandmother, who he
14 moved up here from the coast because she didn't have anybody
15 else to take care of her. He cares for his widowed stepmother,
16 his brother, who is currently incarcerated at the Department of
17 Corrections. He cares for, obviously, his immediate family.

18 And as odd as it may sound, Your Honor, I think one of the
19 reasons Sid Backstrom finds himself before this Court today is
20 that he is a caretaker. He feels responsible on so many levels
21 to so many people. He understands that this incident has
22 affected not just him and his immediate family; but it has
23 affected his community, his church, Ole Miss, and also the Bar.

24 THE COURT: Well, what does being a caretaker have to
25 do with him being -- being the reason he's standing before the

1 Court?

2 MR. TANNEHILL: Your Honor, I think that in some ways
3 he was just trying to help the situation, and I think that he
4 takes responsibility for that. He's clearly been remorseful to
5 me and admitted his role in this incident. Your Honor, that
6 was my only point.

7 Your Honor, I'm just here today to ask that this Court
8 accept his plea, the plea that was offered by the Government
9 and accepted by us and just have leniency on Sid Backstrom; so
10 he can make something positive out of this terrible situation.

11 THE COURT: Well, thank goodness all caretakers are
12 not before the Court having been convicted of a serious crime.

13 MR. TANNEHILL: Yes, sir.

14 THE COURT: There's no symbolic relationship between
15 being a caretaker and committing a serious act of law
16 violation. But at any rate, I appreciate your comments. Does
17 the Government have anything you wish to add?

18 MR. SANDERS: Your Honor, only that we would ask
19 that -- I know you said you were -- we would just ask that the
20 Court accept the plea agreement, that we felt it was a just one
21 and nothing since then has caused us to feel otherwise. And as
22 they've said several times, working with defense counsel in
23 this case, Mr. Backstrom, I think, is genuinely remorseful, not
24 in the sense that is so often the case where a defendant is
25 remorseful more because he got caught than anything else.

1 I think Mr. Backstrom -- and I think that was clear at his
2 change of plea hearing -- is remorseful for doing what he did.
3 So we would just ask that you accept the plea agreement.

4 **THE COURT:** All right. The Court has studied the
5 situation, and the Court does accept the plea agreement that
6 was entered into. I agree, Mr. Trapp, with your statement that
7 the many letters that were received on behalf of your client
8 show that he's well-liked and has been well-respected in his
9 profession.

10 Of course, the letters that were received -- and there's a
11 large book of them here; these are just Mr. Backstrom's
12 letters -- were solicited by you. And of course, in all cases,
13 a lot of this type -- and of course, the Court is not surprised
14 that they all asked for leniency and consideration or you
15 wouldn't have submitted them.

16 The Court also received letters that were unsolicited from
17 laypersons and others who look very, very cynically on the
18 conduct of a lawyer who will attempt to corrupt the rule of law
19 in this country. And I appreciate what you said, Mr. Trapp,
20 that you and your client both hope that this situation he finds
21 himself in would be a message to other young lawyers and even
22 law students how not to conduct themselves after they begin to
23 practice law.

24 Frankly, I've been kind of surprised at the lightness with
25 which this judicial bribery case has been taken by some people

1 who are suppose to be role models to law students and to other
2 students generally, young people, as to how they should conduct
3 themselves. And I'm glad to see that Mr. Backstrom saying that
4 he hopes his prison sentence will be a message to other people
5 as to what might happen to them and what should happen to them
6 if they violate the oaths as a member of the Bar and as an
7 officer of the Court.

8 The Court has been impressed by Mr. Backstrom's state of
9 mind regarding how he feels about this charge. I remember when
10 you pled guilty, Mr. Backstrom; you were very remorseful at
11 that time. I cannot say that I have seen that type of remorse
12 with some of your co-defendants. So I take that into
13 consideration by -- from my observation of you.

14 There's one thing that I have not seen from you that I
15 thought I would see, and that is some kind of cooperation on
16 your part with the Government. They gave you a plea agreement
17 that provided you would have -- your sentence would be capped
18 at half of Mr. Scruggs' sentence, and that was based on assumed
19 cooperation from you. I understand there was a proffer of some
20 kind of cooperation before the plea agreement was made, but
21 there has been no cooperation.

22 MR. TRAPP: I think we've done what we've been asked
23 to do, Your Honor.

24 THE COURT: You think so?

25 MR. TRAPP: Yes, sir.

1 **THE COURT:** Well, I haven't heard any testimony or
2 any proffer from the Government about his knowledge of the
3 others' activities, especially one co-defendant I was
4 interested in.

5 **MR. TRAPP:** There has not been any knowledge of that
6 that he has, Your Honor.

7 **THE COURT:** Well -- all right. Well, I -- that's
8 what I -- rose in my -- the question rose in my mind from what
9 I've heard, and what I question about what he knew about the
10 other things. But based on that, I -- as I say, I will accept
11 the plea agreement.

12 And I know it's a -- it's a difficult thing for you,
13 Mr. Backstrom. I know about your family. I know how well they
14 are liked and respected by your neighbors. I've had letters
15 from them, also. And -- but, as Mr. Scruggs said this morning,
16 the last thing he said was that he hopes that he will be a
17 better man when this is over. And I hope you can be also.

18 Pursuant to the Sentencing Reform Act, it is the judgment
19 of the Court that the defendant, Sidney A. Backstrom, be
20 committed to the custody of the Bureau of Prisons to be
21 imprisoned for a term of 28 months on Count 1 of the
22 indictment. Upon release from imprisonment, he shall be placed
23 on supervised release for a term of three years.

24 There's certain strict conditions of conduct that you must
25 abide by, Mr. Backstrom, following your release from custody.

1 I'm not going to go over those with you at this time, but the
2 probation officer will do so when that time comes.

3 The Court finds that there is reason to depart upward from
4 the sentencing guidelines on the matter of a fine; and the
5 Court does so keeping with the aim that the defendant can pay
6 for his personal costs of incarceration which the Bureau of
7 Prisons estimates at \$2,017 per month during the cost of
8 incarceration and \$1,700 a month during the cost of supervised
9 release.

10 The Court will order a fine in the amount of \$250,000,
11 which is an upward departure for that reason, based on the
12 defendant's length of incarceration and his financial assets,
13 which the Court finds are capable of meeting that. The lump
14 sum payment is due within 30 days but in no event shall be made
15 less than 60 days.

16 Now, Mr. Backstrom, you have the right to appeal any
17 sentence imposed illegally or as a result of any miscalculation
18 of the guidelines or outside the guideline range. And if you
19 are unable to pay for the cost of an appeal, you may request
20 the Court to consider waiving those costs.

21 You'd wished to report on your own, and the Court will set
22 the same date. May I see a voluntary surrender.

23 THE COURTROOM DEPUTY: (Passing document.)

24 THE COURT: I'm going to sign it in advance. I've
25 set the reporting date August the 4th. And so we'll have

1 evidence that you agree to report on your own, you may sign
2 that; and your attorney may witness it.

3 (Parties complying.)

4 **THE COURT:** As to the place of incarceration, I'll
5 make the recommendation requested to the Bureau of Prisons.
6 And you'll be notified if they accept that recommendation or if
7 there is some other institution that's designated for your
8 service, so you'll know where to report.

9 All right. Is -- and also, Mr. Trapp, if you'll place
10 Mr. Backstrom in touch with the probation officers so they may
11 draw up any other information they need from him.

12 **MR. TRAPP:** Yes, Your Honor.

13 **THE COURT:** Is there anything else?

14 **MR. TANNEHILL:** No, Your Honor.

15 **MR. TRAPP:** No, Your Honor.

16 **MR. SANDERS:** No, Your Honor.

17 **THE COURT:** All right. Good luck, Mr. Backstrom.

18 **THE DEFENDANT:** Thank you, Your Honor.

19 **MR. TRAPP:** Thank you, Your Honor.

20 **THE COURT:** We'll be in recess.

21 (THE SENTENCING ENDED AT 2:30 p.m.)

22 C E R T I F I C A T I O N

23 "I certify that the foregoing is a correct transcript from
24 the record of proceedings in the above-entitled matter, June
25 27th, 2008."

/s/ Rita Davis Sisk_____
RITA DAVIS SISK, RPR, BCR, CSR #1626
Official Court Reporter