

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN
GREEN BAY DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,) Case No. CR 17-160
) Green Bay, Wisconsin
vs.)
) January 23, 2019
ROBERT H. VAN DEN HEUVEL,) 1:02 p.m.
)
Defendant.)

TRANSCRIPT OF SENTENCING HEARING
BEFORE THE HONORABLE WILLIAM C. GRIESBACH
UNITED STATES CHIEF DISTRICT JUDGE

APPEARANCES:

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1 with the exception of what was filed last night by the
2 government, and I gave Mr. Van Den Heuvel a copy of that so he's
3 looked at that. So, yes, he's had everything.

4 THE COURT: And what's the most recent filing?

5 MR. LE BELL: I think it was entitled, "Government's
6 Sentencing Memorandum."

7 THE COURT: Oh, sure.

8 MR. LE BELL: I think that's --

9 THE COURT: That was the 21st, yeah. Okay. It was
10 filed on the 21st. Okay.

11 And I know you've made a number of objections to the
12 factual statements in the presentence report. Do any of them
13 bear on the guideline range?

14 MR. LE BELL: No. I was going to differentiate
15 between things that do and things that don't. I think the only
16 issue is the request or the suggestion on the part of the
17 prosecution that he be given a four-level enhancement for role
18 in the offense. I think that's really the only thing that's in
19 contention.

20 THE COURT: Uh-huh. And I will overrule that
21 objection. I've looked at the response to it and I'm convinced
22 that given the application note this case qualifies for the
23 four-level enhancement.

24 There were a number of people that participated in the
25 fraud, some knowingly, but most unknowingly. But the fraud was

1 so extensive that it meets the -- the standard set forth by the
2 court in *U.S. vs. Diekemper, Miller, and then Frost*.
3 Specifically, I'm to consider the length of the scheme, the
4 amount of money involved, and the level of orchestration to see
5 if it was otherwise extensive.

6 And certainly the facts of this case, the extensive
7 fraud recounted in the presentence report, is very extensive.
8 There are two people who have now entered pleas of guilty to
9 fraud in connection with this, two employees of
10 Mr. Van Den Heuvel who he directed to send to the Wisconsin
11 Economic Development Corporation falsified training reports.
12 And that was -- and other records in connection with the grant
13 and the loans that were provided by WHEDA that resulted in
14 significant monies coming in.

15 And then there were other employees, some of whom seem
16 to have -- could possibly have been charged but I'm not
17 suggesting the government should charge them. They were acting
18 at the direction of their employer, including preparing emails
19 and PowerPoint demonstrations, all kinds of things. But it's
20 not even required under the law, as I understand it, that all of
21 the participants be aware of the fraud, they're simply acting
22 pursuant to his direction.

23 So I'm satisfied the four-level enhancement does
24 apply. I'm going to adopt that, overrule the objection. And so
25 the guideline range then is --

1 Is that the only one that applies to the guideline
2 range?

3 MR. LE BELL: Right. Let me just make sure. I'm
4 almost positive.

5 THE COURT: Yeah. Because I think the basic argument
6 really is over the viability of the plan.

7 MR. LE BELL: Yes.

8 THE COURT: And that was where -- and that deals with
9 the mitigating factors.

10 MR. LE BELL: Let me just make sure I'm correct.

11 (Brief pause.)

12 MR. LE BELL: I think the rest of the paragraphs just
13 take into account if the Court were to not adopt the
14 government's recommendation and either vary it down to a three,
15 two, or no. So that's --

16 THE COURT: Yeah. Okay. So, and this is -- the
17 amount of the loss here that the parties have stipulated to --
18 and even this is challengeable, but I think that it's a
19 reasonable agreement of the parties and I will adopt it.

20 The amount of the loss then is \$9,389,440. That
21 results in an 18-level increase over the base level. And that's
22 the driving -- really the driving impact, as well as the role.
23 So we're really looking at a -- at a -- an offense level then of
24 30 after reduction for acceptance of responsibility. The
25 criminal history category is II. The guideline sentence then

1 would be 108 months, which would be 9 years, to 135 months,
2 which would be 11 years and 2 months. That's the guideline
3 range.

4 And determination of the guideline range is the
5 starting point in federal sentencing. Obviously, it's not the
6 ending point and I'm free to impose a sentence either above or
7 below that guideline range as long as I give a good reason for
8 doing so. So I'm to apply the factors set forth in the statute.

9 And I'll hear first from the government. Then all we
10 have left then is argument; is that right?

11 MR. LE BELL: Yes, Judge. I just wanted to find out
12 from you if you want to have me incorporate my comments with
13 respect to the factual inconsistencies in my part of it, or do
14 you want to go back and forth?

15 THE COURT: Why don't you go ahead and if there are
16 factual inconsistencies that you believe you need to correct in
17 order to make a sentencing argument, I think Mr. Krueger should
18 be able to address those in his comments.

19 MR. LE BELL: This is going to end up being a little
20 hodgepodge because they both are sort of intertwined, the 3553
21 factors along with the other statements that the government
22 asserts supports their position so

23 THE COURT: If you prefer we could start with
24 Mr. Krueger's sentencing argument and go to you and come back to
25 him.

1 THE COURT: All right. Thank you, Mr. Van Den Heuvel.

2 I begin with the guideline range of, as I said, 108 to
3 135 months. That's 9 years to a little over 11 years. That's
4 the starting point in the sentencing determination.

5 And the guidelines are a systematic effort on the part
6 of the Sentencing Commission to bring and compare all of the
7 factors that should assist a court that are relevant to
8 determining a sentence. The goal of the guidelines was to avoid
9 what's called unwarranted sentence disparity. That means they
10 don't want people who commit similar crimes and have similar
11 records to receive vastly disparate sentences, because it seems
12 unfair; you want to have some consistency in sentencing.

13 But the guidelines are not infallible, they have
14 holes. They don't tell the whole story. And so current law is
15 that I'm free to depart from the guidelines, to go up or down
16 depending on the facts of the case, as long as, again, I give
17 good reasons for doing that.

18 The guidelines -- the statute requires that I not only
19 consider the guidelines, but I consider primarily two factors.
20 One is the nature and circumstances of the offense, and the
21 second is the history and character of the defendant. And then,
22 with those two factors, try to fashion a sentence that meets
23 those goals that both parties talked about.

24 But, first of all, the first of which is to impose
25 just punishment for the offense. Just punishment is defined as

1 punishment that's proportional to the crime. It reflects the
2 seriousness of the offense, promotes respect for the law. How
3 do you -- what's proportional to a 9 1/2 million dollar fraud?

4 Both attorneys recognize that we don't look in terms
5 of -- I mean, there's not like measurements. We don't have a
6 ruler that tells us. These are matters of judgment. It's
7 obviously, though, a fraud of a significant magnitude, because
8 when we measure a fraud we look at not only the conduct but the
9 magnitude of it. And 9 1/2 million dollars is an awful lot of
10 money, no matter where you are.

11 I not only look at the nature and section of the
12 offense, but also the history and character of the defendant.
13 And then, as I said, the first goal is punishment.

14 The second goal is deterrence. And as the government
15 points out, deterrence is important. It's especially important
16 in white collar crime, because people that commit white collar
17 crimes are motivated by typically money. And the message you
18 want to send is that crime doesn't pay, and what amount of
19 deterrence is necessary to convince someone that defrauding
20 someone and making 9 1/2 million dollars doesn't pay? That
21 would also seem to suggest a significant sentence.

22 Other goals are -- as counsel indicated, are the need
23 to protect the public. And certainly, Mr. Van Den Heuvel --
24 nobody suggests that he represents a danger to the physical
25 well-being of the public, at least in the sense that he's not a

1 violent person. Although it's also true that protection of the
2 public from financial crimes is important, too, and financial
3 crimes can be almost sometimes more debilitating than a slap in
4 the face or physical violence.

5 And I think Dr. Araujo's explanation of the effect of
6 the crime on him is perhaps an example of that. I've seen worse
7 cases where life savings are taken away by a fraudster who's --
8 who takes advantage of people. So protection of the public is a
9 factor too.

10 And then, lastly, is the need for rehabilitation. And
11 Mr. LeBell's right, we sentence people as individuals. We don't
12 just plug, you know, values into a computer and come up with
13 some sort of number. And it is a matter of judgment and
14 reasonable people can disagree over that judgment.

15 But turning first to the nature and circumstances of
16 the offense. Frankly, and I recognize the big argument here
17 is -- isn't what was done so much, there's not an argument over
18 the facts, there's really an argument over the motivation. And
19 I think the argument over motive is somewhat misleading.

20 I do follow the money. I think that's a pretty good
21 argument. If Mr. Van Den Heuvel really believed that he had the
22 solution to pollution, to global warming, to waste, I don't
23 believe he would have spent as much of this money on other
24 things. I think these investors, as soon as they saw clear
25 evidence of that, would have -- would have been happy to invest

1 in his project. I just don't see that.

2 And then the argument over -- over this is really over
3 the viability. But it's not the viability of the Green Box
4 plant, it's the commercial viability of it. In order to support
5 the objection and argument that the green plan -- the Green Box
6 plan is not only viable but on the verge of success,
7 Mr. Van Den Heuvel has filled the record with numerous reports,
8 lengthy reports. As the government points out in its response,
9 however, those reports do not come close to demonstrating that
10 the plan was commercially viable or even on the verge of
11 commercial viability. Some of the reports are based on limited
12 demonstrations using other kinds of inputs from what the plan
13 called for. Others are based on unsupported statements from the
14 defendant himself which were assumed to be true for purposes of
15 writing the report.

16 Although the government does not dispute that the
17 process described by Mr. Van Den Heuvel was theoretically
18 viable, none of the reports demonstrate the plan was
19 commercially feasible, meaning that it could be profitably
20 operated to generate pulp, pellets, fuel, tissue rolls, and
21 consumer products for post-consumer -- from post-consumer waste
22 with no wastewater at the volumes and speed Van Den Heuvel
23 promised his investors and friends.

24 These reports were essentially fundraising tools and
25 they assisted in that, that Mr. Van Den Heuvel created to induce

1 other investors to continue the stream of investment dollars he
2 needed to maintain the appearance of a legitimate cutting-edge
3 business while at the same time supporting an extravagant
4 lifestyle.

5 That's what I see in this case. And the letters from
6 financial institutions as well. They're conditioned on due
7 diligence. They're not assuring, but he uses them. What could
8 be more fraudulent than putting your own -- putting together a
9 phony letter from Schenck? What could be more fraudulent than
10 instructing your employees to submit phony training records to
11 the government, the state government, to get funding back?

12 This isn't an ends-justifies-the-means case. These
13 means are corrupt. And the end was so far -- it was such a
14 grandiose plan that I don't believe that a person with
15 Mr. Van Den Heuvel's acumen really believed it.

16 He's got great confidence. And he talks, as we've
17 just heard -- it's no mystery why Dr. Araujo and others believed
18 him. Not only did they deal with a very forceful and convincing
19 personality, but they had a friendship with him too. Their
20 wives got to know each other, their children.

21 Dr. Araujo, you shouldn't feel stupid. You're not a
22 -- you know, to be a victim is not to be dumb. Brighter people
23 than you with much more money spent much more on this project
24 than you did. I would say you're the hero of this case,
25 frankly, because your determination brought this to an end. Who

1 knows how many other people would have lost had you not
2 persisted. I wish I had the ability to give you restitution.
3 Our system of justice is limited, as you no doubt and
4 unfortunately know.

5 And, in fact, the government has compromised its case
6 because of the resources that are taken just to bring the case.
7 The complexity of this case, a person who set up some 50
8 different entities, LLCs and corporations that intertwine, bank
9 records that are almost impossible to decipher. You look at the
10 resources, and in this case the government's paying for the --
11 the taxpayers are paying for the resources on both sides.
12 They're paying the government to prosecute the case and
13 Mr. LeBell to defend Mr. Van Den Heuvel because he has no money,
14 although he lives in a \$2 million house until he found himself
15 in jail.

16 I recognize that this is hard for family and friends
17 and loved ones to hear. And I'm sorry for that. They know a
18 different side of Mr. Van Den Heuvel. They were not taken
19 advantage of like Dr. Araujo and the EB-5 victims and the
20 Cliffton Equities people and others; the other employees who
21 went unpaid, who bought his lies and continued to work for him;
22 the people that engaged in fraud for no benefit for themselves
23 but now have been convicted of federal crime, federal conspiracy
24 charges, because they did what Mr. Van Den Heuvel told them in
25 the belief that he was their employee.

1 Mr. Van Den Heuvel, you know, you could do a lot in
2 this case by being honest. You've put your family and your
3 friends in a horrible position. They must either believe that
4 you have lied to them as well or have not been completely
5 honest, or they must believe that the criminal justice system of
6 the country in which they live is corrupt. And you've made that
7 their choice.

8 And I've looked carefully at these documents. Believe
9 me, I'm not a big fan of government. I don't want to see
10 someone crushed who is innocent. Nobody does. This evidence is
11 overwhelming. And you lied. You lied to get to betray people
12 and defraud them. And it's a terrible thing to do. But it's
13 even worse to put your children in the position of now believing
14 that the country in which they live is corrupt. And that's
15 essentially what you've put them in the position of believing.

16 This idea that you're motivated by love of your fellow
17 man and this grandiose plan to make up for the death of your
18 child, these are ruses. If you believe it, you have to get over
19 it yourself. One doesn't defraud so many people in such a broad
20 scheme lasting over four years because he has a good motive to
21 cure the world of infectious diseases. This is absurd and I
22 can't countenance this.

23 I recognize Mr. LeBell makes the best argument he can.
24 He's a good advocate. But frankly, it makes no sense. It is
25 not credible. I've looked at these documents. They don't

1 support the idea -- and when you ramble on about everything
2 that's ever been done all around the world, what does it have to
3 do with you? Some of your companies may have had a part in it.
4 But this isn't Green Box, whatever you did in -- I mean, this is
5 a fraud.

6 Some of the very reports you rely on, as the
7 government points out, actually support the defense. The E3
8 consulting report that you provided, dated February of 2015,
9 assume that the project costs would have capital costs of
10 124, -- over \$124,000. In other words, instead of describing a
11 proven system, the report asserted that over a hundred million
12 dollars was needed to start the Green Box process in De Pere and
13 Cheboygan, Michigan. That was four years after you had
14 represented to Wisconsin -- the Wisconsin Economic Development
15 Corporation that its hundred-million-dollar loan would allow you
16 to begin operations immediately and three years after you
17 represented the same thing to Clifton Equities to get them to
18 give you \$2 million in 2012. And, of course, this was long
19 after you had told Dr. Araujo that, you know, open a -- keep a
20 date on your calendar, we're about to have a grand opening.

21 This project -- and the idea that this was -- you were
22 on the verge of breakout and then the search warrant happened
23 and that's what stopped everything, that's absurd as well. What
24 was the Brown County Sheriff to do, overmatched as they were
25 with the complexity of your business arrangements?

1 Dr. Araujo was one -- how many other people were they
2 supposed to let lose their money before they took any steps?
3 The complexity of this fraud made it so difficult for a local
4 law enforcement agency to do anything. And yet their choice was
5 either to stand by and watch more people lose money or to
6 actually do something.

7 And they had people on the inside, your own
8 accountants were telling them that you weren't legitimate. They
9 warned you not to use money that you took from investors to pay
10 your alimony, to buy cars and to use in cash, and you ignored
11 those requests.

12 Now, you're a smart person. You knew that was wrong,
13 you knew that was fraudulent, and you knew that you were doing
14 that to pay off debts that you had already incurred before. And
15 the sad thing is, you're such a bright person and you've given
16 so much to this community. And the community loves your family.
17 We all see "Van Den Heuvel" all over the place. And this is not
18 a reflection on your family. It's certainly not a reflection on
19 your brothers or your children, it's you. You have really
20 harmed them. And you've harmed your own immediate family.

21 As I said when you were here, what is it, two years
22 ago now? No judge wants to impose a sentence to prison,
23 especially for a man of your age and stature in this -- and who
24 has a family and a family that's so dependent on him. But that
25 doesn't immunize anybody from a prison sentence, otherwise it

1 would be a license to commit a crime.

2 I think this offense is very serious. The government
3 points out not only the scope of the fraud, the different
4 statements. It wasn't a one-off, like Mr. Krueger said. It
5 wasn't one representation that was mass-communicated to
6 everyone. You customized each approach to each investor, to the
7 friends that you met through the international school, Dr. Linn
8 and Dr. Araujo. You had the personal touch. Even your honesty,
9 your apparent honesty, your religious devotion, all of these
10 things almost become a tool. And I'm not questioning your
11 religious belief, but I think you need to take a careful look at
12 your own behavior and consider it in light of that faith that
13 you hold so dearly. You don't treat people this way if you
14 honestly believe those things. You don't treat your employees
15 the way you treated them, leave them unpaid.

16 Now, that's not the fraud. Mr. LeBell is right,
17 that's simply a breach of your contract, and we don't treat
18 breach of contract as a fraud. That's unfortunately true for
19 many of those people who have asked for restitution.
20 Unfortunately they believed you when you said things were gonna
21 turn around, they continued to work.

22 But for the people that you drew in with these
23 elaborate presentations, PowerPoint presentations that you
24 modified and customized and added and gave partial and
25 incomplete and incorrect information to get -- induce people to

1 invest in you, that was terrible. And the magnitude of it.

2 But the nature of the victims, the personal victims,
3 how can you do that to friends, people that know your wife and
4 whose daughters are friends with your kids? You ruined the
5 relationship between the families.

6 And then the E5 people and the Clifftons. Now, these
7 are foreign investors. And I think the government makes a good
8 point. People -- foreigners invest in this country because they
9 appreciate the rule of law and honesty and transparency, the
10 lack of corruption in this country. Well, you have given many a
11 lesson not to invest, at least around here, because you're gonna
12 come away with nothing, you're gonna lose everything. That's a
13 terrible message to send about the community in which you grow
14 up and which you contribute in and which you love. And yet
15 that's what you've communicated to some foreign investors.

16 The manner in which you conducted your business, not
17 drawing a salary, having much of this money go into different
18 accounts and then huge cash withdrawals that you've used for
19 your spending money because you knew it couldn't be landed in a
20 bank account in your name. All of these things tell me the
21 depth of your fraud.

22 So I see it as a very significant and serious crime.
23 The magnitude, the nature of the crime, the victims, all of
24 these things are very -- I must factor in and I must take in
25 consideration and are aggravating factors.

1 Your personal circumstances, I mean, again, as I said
2 last time, there isn't an excuse for this. You know, I have so
3 many people come before me that never had a thing in life. They
4 didn't even have a father or a mother, or at least a sober
5 mother or a nonaddicted -- a lot of them come from abuse. I
6 read presentences every day, and I wonder where in life would I
7 be if I had as little in life as this person who comes before
8 me.

9 Your presentence isn't like that. You had so many
10 gifts and blessings in your life. You had good families,
11 wonderful siblings who even no matter what will never turn on
12 you. I mean, they will not support lies and crimes, but they
13 will not -- their love is unconditional. And your family,
14 you're a good father in the sense that you have that sense of an
15 obligation, you recognize the importance, you've tried to give
16 them your faith, too. And obviously that's a great gift if you
17 have that to give. You have that blessing.

18 And, of course, your business acumen, as Mr. Barone
19 testified and Mr. Barrow, you know, obviously you could be --
20 you were very successful. So there wasn't a need to do this.
21 And that makes it aggravating too.

22 And then the fact that you would do it when you
23 have -- when you hold a position of such responsibility and
24 stature not only as a father and a husband, but as such an
25 important member of the community in which you grow up and a

1 contributor. Those very things that helped you defraud people
2 who had every reason to trust you because you are an
3 upstanding -- at least by the impression they had -- a person of
4 great stature, made it possible for you to commit this crime,
5 made it easier for you to convince people who didn't perhaps
6 take every step or dot every "I" or cross every "T" to check out
7 everything because, of course, you're Ron Van Den Heuvel, you're
8 a great philanthropist, you contribute to the community. And
9 those things allowed you to maintain a lifestyle and appearance
10 that helped you induce others to give you money.

11 So, you know, those are aggravating factors. On the
12 other hand, I certainly don't want to ignore the contributions
13 you have made to this community. And, of course, those aren't
14 what bring you to court, it's your crime, but I certainly don't
15 want to ignore those.

16 The request for leniency, boy, and forgiveness? It's
17 not my -- forgiveness is something that somebody who is wronged
18 does. I wasn't wronged, I can't forgive you. I can show some
19 leniency, but I can't -- in the sense of forgiveness, that would
20 be something you would have to ask Dr. Araujo to do because I'm
21 the judge, I'm not the victim here.

22 And that's not to say courts, you know, can't show
23 mercy in a sense and can't be lenient in appropriate cases, but
24 I think the government is right, I would send a terrible message
25 if I did not impose a sentence that was substantial.

1 I'm going to adopt the government's recommendation.
2 I'm going to impose the 90 months. And to me, that is showing
3 leniency. When I look at the amount of money here and the scope
4 of the fraud and the nature of it, I think a good argument could
5 be made for at least the guidelines. And many people would say
6 of course.

7 But I'm giving you a lot of credit for frankly your
8 acceptance of responsibility. I do think that this would have
9 been a very difficult and expensive case for the government to
10 have to continue to prosecute. I know you've waived your right
11 to appeal. That also will save time to the extent it sticks,
12 and I'm frankly giving you credit for that.

13 And I don't want to -- I also am giving you credit for
14 what I see in all of these people that care about you and see
15 the goodness in you, because I know it's there. They saw it.

16 At the same time, this is a terrible crime. And as I
17 said last time you were in front of me, I think you need to face
18 Ron Van Den Heuvel. I think you need to take a close look at
19 yourself. And I think you ought to -- you ought to try to give
20 your family a sense that you're not a victim of a corrupt
21 system, but you've made some terrible mistakes and you got what
22 you deserve and let them at least walk out of here thinking they
23 don't live in a corrupt world where the courts and the justice
24 system care nothing but scalps and putting people in prison who
25 don't deserve it.

1 I've done my best to listen closely to you, to
2 consider your arguments and your attorney's arguments, but I'm
3 convinced this is a fraud of great magnitude, committed by a
4 person who knew better and who even now tries to minimize the
5 damage and the evil of what he did. You're not that old. 64
6 isn't as young, but these days people live a long time. This is
7 certainly not the end of your life. The prison that you will go
8 to is not like the Brown County Jail. That's the hard time. I
9 expect you will be in a facility that's not anywhere near as
10 austere as that.

11 In a sense, you know, we look for punishment in this
12 world. Our prison, especially for people in your position, are
13 going to be humane. That's not to minimize the separation and
14 the pain of separation from family, but my sense is your
15 family's not gonna leave you and they're going to visit you and
16 you'll have contact with them.

17 But I don't see the restitution here as a real
18 possibility. I just don't think that this system was
19 financially viable or that money would have been spent on this
20 system instead of for the other purposes. Maybe I'm wrong. I
21 hope so. But it seems to me you have no assets even to hire an
22 attorney and so nobody who, despite what you say about all the
23 people that think this is great, no one will lend you money for
24 it, at least at this point. And the vague lines of credit which
25 once they look at the local liens in the county court across the

1 street, that dries up. That goes away.

2 Realistically, my hope is that, you know, you think
3 hard and long about what you've done, you explain to your family
4 so they don't feel so hurt and victimized by a system instead of
5 by what you've done because you're the one that put them and you
6 in this position. And that, it seems to me, is all we can do
7 here today.

8 90 months in the custody of the Bureau of Prisons.

9 \$100 fine -- or special assessment. I'm not going to
10 impose a fine.

11 I have to impose the restitution. And I do impose the
12 restitution in the amounts agreed to by the parties. That was
13 \$9,428,618.81 to the individuals listed in the presentence
14 report.

15 That is the right figure, is that right, Mr. Krueger?

16 MR. KRUEGER: Correct.

17 THE COURT: And then any fine on top of that would
18 be -- wouldn't be paid.

19 And I -- restitution. When you get out you'll be
20 ordered to pay restitution to the extent you're able.

21 And certainly if there's an avenue and resources
22 available, I think the civil remedies remain.

23 With respect to the conditions of your supervision, I
24 am going to impose those. And let me ask you, Mr. LeBell, have
25 you gone over those with your --

1 MR. LE BELL: I have, Judge. And if you look at the
2 objections, there is a couple of very minor modifications that I
3 requested.

4 THE COURT: Why don't we address them as I go through
5 them. Okay?

6 Three years of supervision. That's the limit. That's
7 the maximum I can impose.

8 These are the conditions:

9 That you report to probation --

10 Oh, by the way, this sentence is concurrent as
11 recommended with the sentence Mr. Van Den Heuvel is already
12 serving in the other case.

13 That he is to report to the probation office in the
14 district to which he's released within 72 hours of his release
15 from the custody of the Bureau of Prisons. And he's to report
16 to the probation officer in a manner and frequency as directed
17 by his -- by the court or his probation officer.

18 He's not to leave the state of Wisconsin without the
19 permission of the court or his probation officer.

20 He's to answer truthfully all inquiries put to him by
21 the probation officer subject to his Fifth Amendment right
22 against self-incrimination and follow the reasonable
23 instructions of the officer.

24 He's to use his best efforts to support his
25 dependents.

1 He's to use his best efforts to find and hold lawful
2 employment unless excused by his probation officer for
3 schooling, training and other acceptable reasons.

4 He's to notify the probation officer at least 10 days
5 prior to any change in your place of employment or residence.
6 When such notification is not possible, you're to notify your
7 agent within 72 hours after the change.

8 You're not to associate with any persons known by you
9 to be engaged in or planning to be engaged in criminal activity.
10 And "associate" as used here means you're not to reside with
11 them or to regularly socialize with such a person.

12 You're to permit your probation agent to visit you at
13 reasonable times at home and permit any confiscation of any
14 contraband observed in plain view by the officer.

15 You're to notify your agent within 72 hours of being
16 arrested or questioned by a law enforcement officer.

17 You're to pay the restitution at a rate of at least
18 \$200 per month or 10 percent of your net monthly income,
19 whichever is greater.

20 You're also to apply any tax returns or refunds toward
21 payment of the fine.

22 And you're not to change exemptions claimed for either
23 federal or state income tax purposes without prior notice to
24 your agent.

25 You're to provide access to all financial information

1 requested by your agent, including but not limited to copies of
2 your federal and state tax returns. Your tax returns must be
3 filed in a timely manner. And you're also to submit monthly
4 financial reports to the supervising probation agent.

5 You're not to open any new lines of credit which
6 includes the leasing of any vehicle or property, taking out a
7 loan from a bank, or using existing credit resources without the
8 prior approval of your probation officer. If your financial
9 obligations become satisfied, that condition will be dropped.

10 You may not hold employment --

11 This is the one Mr. --

12 -- hold employment with fiduciary obligations during
13 the term of -- without first notifying your employer of the
14 conviction. And you're not to hold self-employment having
15 fiduciary responsibilities or otherwise involved in initiating
16 or conducting financial transactions without the approval of
17 your agent.

18 What are the objections then?

19 MR. LE BELL: It's just on 10, Judge. I just wanted
20 to see if the wording can be changed that restitution should be
21 required subject to his ability to pay.

22 THE COURT: Oh, that's always the case. He is not
23 violating if he cannot pay. The assumption is only a willful
24 violation of a condition would result in concerns. Yeah, if
25 he's unable to pay \$200 a month, he will not be revoked. But he

1 has to use his best efforts. And I recognize that when he's out
2 he'll be in his late 60s, close to 70. Yeah, in his early 70s.
3 Yeah.

4 Okay. Anything -- other than appeal rights. I don't
5 have a problem recommending Oxford. And it seems to me that is
6 even -- the camp there is --

7 MR. LE BELL: Camp.

8 THE COURT: -- a likelihood I would -- I would think
9 that's a likelihood give his circumstances. He is incarcerated.
10 Were he voluntarily surrendering it would be more likely, but
11 given his history I'm gonna just continue the sentence.

12 MR. LE BELL: If you can indicate Oxford Camp as
13 opposed to Oxford.

14 THE COURT: I'll recommend Oxford Camp.

15 Other counts are dismissed.

16 And then appeal rights. Is that all that's left?

17 MR. LE BELL: Correct.

18 THE COURT: Mr. Van Den Heuvel, and I'm telling you,
19 you do have the right to appeal. Now, I recognize there's a
20 waiver in the plea agreement, so it's subject to that. But, in
21 any event, to the extent your appeal rights survive, you have
22 the right to appeal.

23 If you can't afford to appeal -- the cost of an
24 appeal, the clerk can assist you so you can file in forma
25 pauperis and not have to pay the costs. Your attorney will talk

1 to you about possible grounds to appeal. And if you choose to
2 appeal, though, you have to file a notice of appeal within 14
3 days of the entry of the judgment.

4 Do you understand those things?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Anything else?

7 MR. LE BELL: No, Your Honor.

8 MR. KRUEGER: Thank you.

9 THE COURT: All right, this matter is concluded.

10 (Hearing concluded at 3:58 p.m.)

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