

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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UNITED STATES OF AMERICA,

Plaintiff,

Case No. 18-CR-198

v.

PHILIP REINHART,

Defendant.

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**UNOPPOSED MOTION FOR EARLY TERMINATION OF PROBATION  
and  
REQUEST FOR RETURN OF PASSPORT**

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On February 4, 2019, this Court sentenced Philip Reinhart to two years of probation, and specifically indicated that it would consider granting a motion for early termination after one year. Mr. Reinhart, through counsel Michelle L. Jacobs, now respectfully moves this Court for early termination of probation pursuant to 18 U.S.C. § 3564(c), and for return of his passport, which was relinquished as a condition of his pretrial release. Neither the government nor the probation office objects to these requests.

**I. Legal Standard**

Section 3564 provides for early termination of probation as follows:

The court, after considering the factors set forth in section 3553(a) to the extent that they are applicable, may, pursuant to the provisions of the Federal Rules of Criminal Procedure relating to the modification of probation, terminate a term of probation previously ordered and discharge the defendant at any time in the case of a misdemeanor or an infraction or at any time after the expiration of one year of probation in the case of a felony, if it is satisfied that such action is

warranted by the conduct of the defendant and the interest of justice.

18 U.S.C. § 3564(c).

In short, this Court may grant early termination of felony probation if: (1) the defendant has served at least one year; (2) the government is given notice and an opportunity to be heard; and (3) termination is in the interest of justice based on the defendant's conduct and the pertinent sentencing factors under 18 U.S.C. § 3553(a). *United States v. Nelson*, No. 09-CR-108, 2012 WL 3544889, at \*4 (E.D. Wis. Aug. 16, 2012). The district court has wide discretion in determining whether to terminate probation. *See United States v. Hook*, 471 F.3d 766, 771 (7th Cir. 2006).

Here, Mr. Reinhart has served a year, and United States Attorney Matthew Krueger has indicated that the government has no objection to the request. The probation office also has no objection to the request.

**II. Termination of probation is in the interest of justice based on Mr. Reinhart's conduct and the § 3553(a) factors.**

On February 4, 2019, this Court sentenced Mr. Reinhart to two years of probation, and specifically stated that it would consider terminating probation after one year. Since then, Mr. Reinhart has been fully compliant. He has made all of the monthly restitution payments (court ordered at \$50/month), plus additional payments totaling over \$9,000.00. He has submitted all required information, and has worked cooperatively with his probation officer, Robert Hermann. After the initial visit, the probation department has not required Mr. Reinhart to report in person, and has never recommended he make any changes, financial or otherwise.

Although this is a fraud case with a significant restitution obligation, this Court may recall that it was not the typical fraud case, in that Mr. Reinhart was not motivated by greed or personal gain, and did not personally benefit whatsoever from the offense.<sup>1</sup> He also provided timely and helpful cooperation, resulting in a § 5K1.1 motion and a government recommendation of a 30% reduction.

Thus, Mr. Reinhart's conduct was atypical and merits early termination of probation. Indeed, while anecdotal, it is fair to suggest that there are very few federal, white-collar cases where there is virtually no evidence of greed or personal benefit. Under similar circumstances, this district has granted a request for early discharge of probation. *See, e.g., Nelson*, 2012 WL 3544889, at \*4 (granting motion where "the underlying offense was mitigated and defendant's character and background are otherwise quite positive").

The § 3553(a) factors also support early termination of probation. Mr. Reinhart is over 60 years old. He was born and raised in Green Bay, and has resided there with his wife of over 35 years. Mr. Reinhart has no prior criminal history whatsoever, and has a lifetime of continuous, legitimate employment. These factors, combined with the "perfect storm" of circumstances that precipitated the

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<sup>1</sup> As this Court may recall, overwhelmed by continuous, severe pressure and abuse from Ron Van Den Heuvel, Philip Reinhart made the mistake of his life, and agreed to create false documents that would be submitted to the WEDC. Mr. Reinhart fully recognized that, despite the pressure and abuse, he should have walked away from Van Den Heuvel. He made the mistake of staying, with the hope of keeping employees employed, benefits paid, and perhaps even eventually recouping close to \$200,000 in his own unpaid wages. Immediately upon being confronted by the government, Mr. Reinhart acknowledged his wrong-doing and thereafter cooperated with the government in their investigation of Van Den Heuvel's sprawling criminal conduct.

offense, make it incredibly unlikely that Mr. Reinhart will reoffend ever, let alone in the next year.<sup>2</sup>

Furthermore, Mr. Reinhart's felony conviction (and one year of probation) serves as just punishment because it is generally proportional to his offense. He has and will continue to suffer daily from the numerous statutory and regulatory, state and federal, collateral consequences of a felony conviction. He will continue a long and arduous process of repayment to the WEDC. And he has already faced, and will continue to face, the undeniable social stigma of being a convicted felon.

In sum, continued probation is not needed to protect the public from Mr. Reinhart nor to specifically deter him from future crimes. And the sentence served thus far, in conjunction with the significant collateral consequences of a federal felony conviction, provide sufficient punishment and general deterrence. *See Nelson*, 2012 WL 3544889, at \*4 (granting motion under similar circumstances).

Two final points merit consideration. First, if this Court does not grant Mr. Reinhart's request, he will be ineligible to vote in the upcoming 2020 elections. Wis. Stat. §§ 6.03, 304.078 (right to vote restored upon completion of imprisonment and probation). Second, continuation of probation will unnecessarily expend the probation office's resources because, at the end of the probation period, the restitution obligation will convert to a judgment against Mr. Reinhart, and there is no doubt that he will continue to make payments in good faith.

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<sup>2</sup> See United States Sentencing Commission, "Measuring Recidivism: The Criminal History Computation of the Federal Sentencing Guidelines" at 11-13, 21 (May 2004).

### III. Conclusion

For all these reasons, Mr. Reinhart respectfully requests that this Court grant his motion for early termination of probation. Continued probation would not be in the interest of justice, and would be greater than necessary to comply with the purposes of sentencing set forth in 18 U.S.C. § 3553.

Mr. Reinhart also requests that, as a part of the Court's order on this motion, the Court authorize the Clerk's Office to return Mr. Reinhart's passport, which was surrendered as a condition of his pretrial release.

Dated this 5th day of February, 2020.

Respectfully submitted,

**BISKUPIC & JACOBS, S.C.**

/s/ Michelle L. Jacobs

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