

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN**

---

**UNITED STATES OF AMERICA,**  
*Plaintiff,*

**v.**

**Case No. 19-CR-151**

**RICHARD GUYETTE,**  
*Defendant.*

---

**DEFENDANT’S SENTENCING MEMORANDUM**

---

The defense requests that this Court impose the mandatory minimum 120 month prison sentence required by the conviction in this case. A sentence above the mandatory minimum is not necessary to address the factors set forth in 18 U.S.C. § 3553.

**I. Mr. Guyette’s History and Characteristics.**

Mr. Guyette is 28 years old and has never previously served time in prison. Thus, the requested ten-year sentence will not only represent the first time Mr. Guyette goes to prison, but it will represent the longest period of time he has ever spent in custody. The Presentence Report in this case properly sets forth Guyette’s conviction history. The Court can see that the longest time Guyette has ever served in custody was 7 months, in 2012, for misdemeanor marijuana possession (18 grams) and paraphernalia. *See PSR* at ¶ 41.

Despite having never been to prison, Mr. Guyette finds himself in Criminal History Category V. But his criminal history is certainly overstated if one closely examines the nature of the prior offenses. Mr. Guyette’s first point comes from a municipal battery citation he received when he was 18. Then, his next **four** points come

from possessing marijuana on two occasions when he was 19. While still 19 years old, Mr. Guyette was given another municipal citation for battery which accounts for another criminal history point. Two more points were assessed for misdemeanor criminal damage to property and criminal trespass (also at 19 years old). *See* PSR at ¶ 44.

When Mr. Guyette was 25 years old he was convicted of misdemeanor Disorderly Conduct, which accounts for two more criminal history points. *Id.* at ¶ 47. As noted, all of Mr. Guyette's previous convictions were for misdemeanor offenses. Additionally, 6 of Mr. Guyette's 10 criminal history points come from marijuana possession-related offenses and municipal citations (for which it would appear he lacked representation). Simply taking away the two municipal citation points would result in Mr. Guyette being placed in Category IV, which would place Mr. Guyette in an advisory guideline range of 100-125 months.

Mr. Guyette was born into a horrible home environment. His mother was a philandering drunk who exposed Mr. Guyette to every type of horrific abuse and behavior one could imagine. Mr. Guyette's father was entirely uninvolved in his son's life. Mr. Guyette remembers meeting his father on only one occasion. As a young child, on numerous occasions, Guyette's mother would abandon him in remote locations while she was on alcohol and drug-related binges. Fortunately, Mr. Guyette had a grandmother who repeatedly stepped in to rescue him. Still, the damage and trauma inflicted on him was extreme.

Given his mother's addiction history coupled with his traumatic childhood, it is unsurprising that Mr. Guyette comes before the Court with the kind of substance abuse history outlined in the PSR. Mr. Guyette first tried alcohol at seven, after stealing it from

his mother. In second grade, Mr. Guyette first tried marijuana, which again came from his mother. Guyette used marijuana regularly throughout his childhood and throughout the time when his young brain was developing and maturing. At 18 Mr. Guyette tried cocaine, which he would use periodically. Guyette tried methamphetamine around 24 years old, right around the time he first tried heroin. From the age of 25 until he was arrested in this case, Guyette would use anywhere between 1.5 and 3 grams of heroin per day. His last use was the day of his arrest on this case. A ten-year prison sentence, with prison based AODA programing, will afford Mr. Guyette the opportunity to receive treatment. Despite having a criminal history that involves marijuana possession, Mr. Guyette has never previously participated in substance abuse programing. *Id.* at ¶ 93.

Likely because of his childhood trauma (and exposure to substances at a young age), Mr. Guyette has an extensive mental health history. In 2012 he was admitted to the acute psychiatric unit at Bellin Hospital. In 2014 Mr. Guyette was admitted to the Nicolet Psychiatric Center in Green Bay. In 2017 he was again admitted to the acute psychiatry unit at Bellin Hospital. Records also reflect that Mr. Guyette has received periodic treatment from the Oneida Behavioral Health agency. Jail and prison are not healthy environments for someone with the type of serious mental health history that Guyette suffers from. One can hope that the Bureau of Prisons provides sufficient mental health care during Guyette's prison sentence. Community-based mental health treatment will be crucial for Mr. Guyette upon his release from prison.

Despite being involved in the instant drug offense, Mr. Guyette has maintained a work history. He worked for over a year as a laborer at Skilled Trades Transport in Green Bay, from 2018 to 2019. Mr. Guyette also maintained employment from 2017 to 2018 as

a plasterer at E&L Plastering in Green Bay. Mr. Guyette was earning \$17.00 per hour at this job and the only reason he left was because he secured better employment elsewhere.

## **II. The Nature and Circumstances of the Offense.**

The offense for which Guyette was convicted is certainly serious. Guyette admits that he was involved in a drug conspiracy with Ruben Ortiz. Because of his addiction history and familiarity with the drug world, Mr. Guyette had a number of customers who wanted drugs from him. As the Court can see from the factual recitation in the plea agreement, Mr. Guyette agreed with the quantity of heroin reasonably foreseeable to him given his role in this offense. As the Court can also see, Guyette was not a leader or organizer of the Ortiz drug operation. Mr. Guyette was first an addict and subsequently an addict who sold controlled substances, often dealing to support his own habit. Mr. Guyette did not possess firearms in connection with this offense. Most importantly, Mr. Guyette accepted responsibility at a very early stage and continues to express remorse and feel shame to this day.

## **III. A Sentence of 120 Months is Sufficient but not Greater than Necessary to Provide Just Punishment, Deterrence, Protection of the Public, and Rehabilitation.**

As to § 3553(a)(2)(A) and § 3553(a)(2)(B), the requested sentence will provide just punishment and deterrence. Mr. Guyette's pretrial detention alone represents the longest period of time he has ever spent in jail. A ten-year prison sentence provides significant punishment, particularly for someone who has never been to prison before. There can be little doubt that a ten-year prison sentence will deter Mr. Guyette from future criminal behavior. Mr. Guyette has two children who he cares about deeply. Mr. Guyette has incredibly strong, pro-social, family support at this point. Upon his release

from prison, Mr. Guyette will have a residence, clothes and financial support. Sobriety and continued mental health care will be crucial for Mr. Guyette. If he stays on a positive path and takes his issues seriously, he will not reoffend. As his criminal history demonstrates, all of his problems relate to substance abuse and untreated mental health.

As to § 3553(a)(2)(C), Mr. Guyette is not a threat to the public. There was no firearm in this case and Mr. Guyette has no felony criminal record apart from this case. As to § 3553(a)(2)(D), the requested sentence will further rehabilitate Mr. Guyette and help him from reoffending. As noted, there will be prison-based AODA programing available to Mr. Guyette. Additionally, Mr. Guyette's mental health needs can be managed and addressed in an outpatient setting upon his release from prison.

Mr. Guyette's criminal history is overstated as outlined above. He is not the type of hardened repeat-felon that one needs to worry about. When sober, Mr. Guyette is an intelligent, hard-working, kind young man. A sentence of ten years represents a sufficient but not greater than necessary term of imprisonment in this case. That sentence is also consistent with the guidelines in which Guyette finds himself, not considering the overstated nature of his criminal history.

Dated at Waukesha, Wisconsin this 25<sup>th</sup> day of July, 2021.

Respectfully Submitted,  
KUCHLER & COTTON, S.C.

**/s/ Anthony D. Cotton**  
State Bar No. 1055106

1535 E. Racine Ave.  
Waukesha, WI 53186  
(262) 542-4218  
tony@kuchlercotton.com