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6
7 **UNITED STATES DISTRICT COURT**
DISTRICT OF NEVADA
8

9 **United States of America,**

10 **Plaintiff,**

11 **v.**

12 **Scott F. Carpenter,**

13 **Defendant.**

2:22-cr-22-GNM-NJK

DEFENDANT'S SENTENCING
MEMORANDUM

14
15
16 As the Court is aware, the plea agreement in this matter provides that the United States
17 and the defense will recommend that the Court impose a non-custodial sentence. On behalf of our
18 client, Scott Carpenter, we respectfully submit this Memorandum pursuant to Local Rule 32-1(d)
19 to highlight certain matters that explain why such a sentence is just, fair, and appropriate. In
20 particular, we respectfully suggest that the circumstances of the offense, Mr. Carpenter's
21 character and service to this country, and the extraordinarily responsible way in which he has
22 handled this entire tragic episode all warrant the Court's lenience.

23 **I. Mr. Carpenter's Education and Public Service**

24 A native of New Jersey, Mr. Carpenter attended Wake Forest University. Although his

1 upbringing and education offered a myriad of opportunities in the business world, Mr. Carpenter
2 elected instead to become a member of ROTC. After his graduation in 2003 as a commissioned
3 second lieutenant and at the top of his ROTC class, he volunteered for and completed Ranger
4 school, and then became a member of the 82nd Airborne Division stationed at Fort Bragg. He
5 was both an excellent soldier and officer. Indeed, his superior officers regarded him so highly
6 that he quickly assumed the role of platoon leader. Several evaluations noted his “unlimited
7 potential,” and one superior wrote that Mr. Carpenter was a “superb leader” with whom he
8 would “fight” to serve again. *See* Exhibit A.

9 During his service, Mr. Carpenter deployed twice to Iraq. During his first stint, which
10 began in late 2005 and lasted five months, he was stationed in Kurdistan on the border with Iran.
11 Shortly before Christmas 2006, after his promotion to Captain, Mr. Carpenter received
12 unexpected orders to return to Iraq. This tour, which began in January 2007, was much more
13 grueling. He was stationed at Forward Operating Base Loyalty in Baghdad -- a particularly
14 dangerous posting with daily mortar and rocket fire.¹ And while the deployment was supposed
15 to be short-term, it lasted for 15 months.

16 One episode, in particular, profoundly affected Mr. Carpenter: in the summer of 2007, an
17 IED destroyed a Humvee right behind the one in which he was traveling. Although he was not
18 hurt physically, the explosion -- coupled with the lengthy deployment -- took their toll
19 emotionally. As a result, he began to drink more heavily, and he decided to return to civilian
20 life. On Memorial Day, 2008, Mr. Carpenter signed out of Fort Bragg with an honorable
21 discharge and the Bronze Star.

22 In the fall of 2008, Mr. Carpenter applied to the FBI. While his application was
23 pending, he served as an ROTC instructor at Princeton. The FBI finally called in mid-2009, and
24 he enrolled in the Academy in September. When he graduated, he was assigned to the New
25 York office.

¹ *See* <https://www.stripes.com/news/getting-used-to-the-racket-rockets-1.68538>;
<https://www.stripes.com/news/mortars-are-a-constant-presence-at-fob-loyalty-1.58407>.

1 Mr. Carpenter quickly became a highly regarded special agent who was involved in and
2 assumed responsibility for significant investigations. For example, in 2014, a colleague asked if
3 he could assist in the sprawling investigation of FIFA, the international soccer organization.
4 Soon after his transfer to the squad handling that matter, he assumed the responsibilities of co-
5 case agent. In that capacity, he played a primary role developing the evidence that led to the
6 major superseding indictment charging bribery and corruption among Central and South
7 American soccer officials.

8 While he enjoyed substantial success at the FBI, he simultaneously struggled with the
9 lasting effects of his experiences in Iraq, as well as his loss of a close friend who died in
10 Afghanistan shortly after Mr. Carpenter joined the FBI.

11 **II. Mr. Carpenter's Role in the NCAA Investigation**

12 In late 2016, a supervisor who had worked with Mr. Carpenter on another squad recruited
13 him to take over as the case agent on the FBI's high-profile investigation of bribery in college
14 basketball. The investigation was wide-ranging and involved a number of FBI agents, as well as
15 investigators from the U.S. Attorney's Office for the Southern District of New York. Over the
16 course of approximately the next nine months, Mr. Carpenter coordinated 19 wiretap
17 applications or renewals; hundreds of consensually monitored communications among a
18 confidential source, two FBI undercover agents, and a myriad of subjects; the service of dozens
19 of grand jury subpoenas; the review of documents; and substantial physical surveillance across
20 the country. Mr. Carpenter also was responsible for coordination and liaison with other
21 components of the FBI's New York Office, many field offices, a variety of officials at FBI
22 headquarters, and personnel at other law enforcement agencies.

23 In addition, there was considerable tension between the FBI and the SDNY over the pace
24 of the investigation, frequent discussions (including some disagreements) over strategy and
direction, and extensive travel. A brief excerpt from Mr. Carpenter's annual evaluation
summarizes both the scope of his responsibilities on this investigation and the skill and talent

1 with which he handled them:

2 SA Carpenter showed a mastery of complex investigative and legal
3 challenges and during the course of dozens of CHS/UC meetings he
4 consistently exhibit[ed] highly effective decision making in challenging,
5 ambiguous and rapidly changing situations. SA Carpenter continually
6 tailored an evolving investigative plan in a proactive manner and
7 consistently identified alternatives to address highly complex problems
8 while dealing with a very difficult target set. In particular, SA Carpenter
9 displayed superior ability to simultaneously execute Title III operations and
10 CHS/UC operations in a coordinated manner. This resulted in superior
11 results, including frequent incriminating admissions by subjects of not only
12 their historical criminal conduct but future plans and specific intent. At a
13 critical phase of the case, a UC was asked to provide a loan to a third party.
14 SA Carpenter recognized this as an opportunity to expand the case and as
15 critical to preserving the UC's bona fides as a high roller. SA Carpenter
16 effectively and passionately advocated for approval to move forward with
17 this loan, despite initial resistance from SDNY who eventually concurred
18 with the loan. SA Carpenter used this opportunity to secure additional
19 evidence against a subject. This directly resulted in a Title III on the
20 subject's mobile phone and set in motion events which would widely
21 expand the case from addressing bribery by NCAA coaches to incorporating
22 the illegal conduct of officials at a major international Sportswear company.

23 *See* Exhibit B.

24 The breadth of the investigation and the relentless workload compounded the pressure
under which Mr. Carpenter was working. In an effort to reduce that pressure, Mr. Carpenter
frequently raised the staffing and resource concerns with his squad leader, who was aware of
some of Mr. Carpenter's personal issues and shared Mr. Carpenter's view that the investigation
required additional personnel. Unfortunately, their requests for additional support were never
fully addressed, and the stress of the investigation caused Mr. Carpenter to drink more. Indeed,
by then, Mr. Carpenter was often drinking to intoxication to cope with his symptoms of PTSD as
well as the demands of his job.

In the middle of that maelstrom, there was a proposal to pursue an undercover operation
in Las Vegas. Although Mr. Carpenter had serious misgivings about adequately staffing that
mission, his concerns were overruled. So, on July 27, 2017, Mr. Carpenter -- together with his
supervisor, his relatively new and inexperienced co-case agent, and the undercover agent --

1 traveled to Las Vegas for a series of meetings with a confidential informant and certain subjects.
2 They brought with them approximately \$135,000 in cash – much of which was “marked” bribe
3 money, and some of which was for the undercover agent’s use in his role as a big spender.

4 Unanticipated operational and logistical issues threatened to derail the operation and
5 intensified the pressure on Mr. Carpenter and his colleagues. Despite the obstacles, all of the
6 undercover meetings were very successful. At the same time, there is no doubt that the intensity,
7 anxiety, elation, and exhaustion of the weekend’s activities left Mr. Carpenter in an even more
8 precarious position.

9 Unfortunate personal circumstances also contributed to Mr. Carpenter’s vulnerability. As
10 Mr. Carpenter’s father describes in his letter to the Court, a very close family friend passed away
11 shortly before the Las Vegas trip. *See* Exhibit C. Mr. Carpenter, who was asked to be a
12 pallbearer, could not fulfill that responsibility because of the trip. His inability to attend the
13 funeral made the loss that much more painful.

13 **III. The Offense**

14 On Saturday, July 29, the last day of their undercover operation in Las Vegas, the agents
15 obtained supervisory approval to rent a poolside cabana at the Cosmopolitan to enhance the
16 undercover agent’s bona fides. After the final meeting ended around midday, the agents learned
17 that the cabana’s rental fee of \$1,500 was actually a minimum charge for food and beverages.
18 As a result, all four agents spent the rest of the afternoon eating and drinking in the cabana and
19 around the pool. Over the course of the afternoon, Mr. Carpenter himself drank at least a six-
20 pack of beer, followed by nearly an entire bottle of vodka.

21 The agents then returned to the undercover suite at the Cosmopolitan, where they
22 showered, changed clothes, and prepared to go out for the evening. While doing so, and still
23 inebriated, Mr. Carpenter -- in the presence of at least one of his colleagues -- obtained
24 approximately \$10,000 in undercover funds from the suite’s safe. The four agents then went
next door to a “high roller” room at the Bellagio. Mr. Carpenter sat down to play blackjack; his

1 colleagues sat at an adjacent bar with a view of the table, taking turns visiting with him and
2 watching as he gambled. Over the course of the evening, Mr. Carpenter continued to drink the
3 free cocktails provided by the casino.

4 Although he had intended to replace the money if he had won, the result was predictable:
5 he lost the \$10,000. He then pressed the undercover agent for more funds; when his colleague
6 acquiesced, Mr. Carpenter lost that money as well. Casino records apparently confirm that his
7 total gambling losses that evening were \$13,500.

8 Although all three of his colleagues had watched him drink and gamble, Mr. Carpenter
9 understood that the entire episode was his fault and that the ultimate responsibility was his.
10 Accordingly, by the time he arrived home two days later, on July 31, Mr. Carpenter's resolve
11 was complete: he would have a full and frank discussion of his conduct with his supervisors and
12 his family, and he would pay the money back as quickly as possible.

12 **IV. Mr. Carpenter's Exemplary Behavior After the Offense**

13 On Wednesday, August 2, after a scheduled day off, Mr. Carpenter returned to his squad
14 and went directly to his supervisor's office to discuss his actions. Completely remorseful, and
15 fully admitting his conduct, he had additional conversations over the next two days with both his
16 squad leader and with the Assistant Special Agent in Charge ("ASAC").² With each, Mr.
17 Carpenter acknowledged his mistake, promised to repay the funds, and assured that he would
18 fully address his issues.

19 Mr. Carpenter was true to his word. A week later, on August 10, he admitted himself to
20 the in-patient program for alcoholism at Geisinger Marworth Treatment Center in Waverly,
21 Pennsylvania. In addition, while he was in that residential facility, he arranged for his father to

22 ² Paragraphs 14-21 Revised Presentence Investigation Report ("PSR") of the include certain information that the three
23 other FBI agents who traveled to Las Vegas provided during their interviews by the Office of the Inspector General
24 ("OIG"). To the extent that those renditions suggest or imply that Mr. Carpenter intended in any way to conceal his
conduct or evade responsibility, he vehemently disagrees. However, we concur with the Government that the Court
need not resolve any such discrepancies before imposing sentence. Accordingly, Mr. Carpenter respectfully asks Your
Honor to disregard them.

1 make full restitution on his behalf.³

2 After completing inpatient treatment, Mr. Carpenter enrolled at an intensive outpatient
3 facility for an additional three months, and he continued to see a therapist of his own accord until
4 April 2021. As the letter from his therapist describes, Mr. Carpenter was fully compliant in his
5 recovery, and he has now fully addressed his issues with alcohol. *See* Exhibit D.

6 In the late fall of 2017, following his medical leave, Mr. Carpenter resumed work at the
7 FBI's New York Field Office. Although he remained a Special Agent -- with a full security
8 clearance, badge, and service weapon -- Mr. Carpenter was reassigned to a "facilities squad"
9 where his principal role was to monitor work by outside contractors working in FBI office space.
10 He remained in that position for three years, and received very positive evaluations.

11 Mr. Carpenter received particular praise for "provid[ing] significant medical assistance to
12 a construction worker that came into contact with a live electrical wire and was seriously injured
13 ... Special Agent Carpenter's swift actions during this medical emergency were critical in
14 ensuring that the injuries suffered by the construction worker were quickly addressed and
15 prevented from becoming worse or life threatening." *See* Exhibit B. This was not an isolated
16 example of Mr. Carpenter's selfless service. In the summer of 2020, Mr. Carpenter was treated
17 for smoke inhalation after he entered an asbestos containment area to put out a serious fire.

18 In October 2020, after three years, the FBI finally transferred him to a counterintelligence
19 squad, where he regained the customary responsibilities of an FBI agent. Although his precise
20 duties and responsibilities are classified, it was apparent that the FBI's operational personnel
21 believed him to be of sufficient character and trustworthiness to justify his holding such a
22 position.

23 ³ On August 15, Mr. Carpenter's father, Frank Carpenter, mailed a check for \$15,000 to an attorney frequently
24 consulted by members of the Federal Law Enforcement Officers Association. Mr. Carpenter had engaged that attorney
upon the recommendation of the ASAC. When they contacted the attorney, both Mr. Carpenter and his father made
clear that the attorney was to transmit the money to the FBI on Mr. Carpenter's behalf. Unfortunately, and for reasons
that we have been unable to establish, the attorney never made arrangements to do so. A year later, at the request of
Frank Carpenter, the attorney returned the check. However, as we have made repeatedly made clear to the
Government, Mr. Carpenter has been prepared to make full restitution at any time.

1 He remained on that squad through the spring of this year. However, as a result of his
2 guilty plea, Mr. Carpenter was suspended without pay and subsequently summarily dismissed
3 from the rolls of the FBI.⁴

4 **V. A Non-Custodial Sentence is Appropriate**

5 A non-custodial sentence for Mr. Carpenter is warranted, not only because the
6 Government will recommend one, but because the facts and circumstances warrant and justify
7 that result.

8 First, Mr. Carpenter has fully taken responsibility for his actions from the moment he
9 returned to his duty station in New York. More important, he has taken every step he could to
10 make things right. He self-reported to his supervisors; he checked himself into a rehabilitation
11 facility to address the underlying issues that led to the conduct; he attempted to make restitution
12 to the FBI (an effort that failed through no fault of his own); he accepted his position on the
13 facilities squad without complaint and worked his way back to a counterintelligence squad; and,
14 finally, he pled guilty to his conduct, and unequivocally and publicly acknowledged what he did
15 wrong.

15 **VI. There is No Need for Deterrence**

16 As a United States citizen, decorated veteran, and law enforcement agent, Mr. Carpenter
17 has great respect for his country and its laws. His conduct in Las Vegas arose not out of any
18 intention to steal from the United States or keep government money, but from an ill-advised,
19 one-time, drunken lack of judgment. In short, Mr. Carpenter's conduct in Las Vegas was a
20 singular aberration from his stellar record in both the Army and the FBI, as well as a marked
21 deviation from his character.

22 On the other hand, Mr. Carpenter's response to his actions in Las Vegas were entirely
23 typical of the dedicated and honest man that his friends and family have always known. Retired

24 ⁴ Even then, he cooperated with the OIG's investigation of the other agents. At the request of USAO and OIG, Mr. Carpenter voluntarily agreed to an interview, which took place on April 1, 2022.

1 Colonel Michael Pratt, with whom Mr. Carpenter served in Iraq, has extolled Mr. Carpenter's
2 high moral principles, his active approach to self-improvement, and his unmatched "ability to
3 turn chaos into order." *See* Exhibit E. Similarly, John Penza, who was Mr. Carpenter's
4 supervisor on the FIFA investigation, describes Mr. Carpenter as "articulate, honest, intelligent,
5 patriotic, passionate and able to adapt to stressful situations." *See* Exhibit F. Mr. Carpenter's
6 wife of seven years, Beth Carpenter, also knows him as "stand-up citizen" who is "a great
7 husband, son, uncle, cousin, and friend." *See* Exhibit G.

8 All of those traits were evident throughout Mr. Carpenter's service in the Army and the
9 FBI, and they were evident when he promptly self-reported his mistake and dedicated himself to
10 confronting and improving his mental health. In other words, one uncharacteristic mistake has
11 changed neither the faith nor the high regard of his family, friends, and colleagues.

12 All of that confidence of those who know him best reinforces that Mr. Carpenter has fully
13 addressed the underlying issues that led to the offense and that there is no risk of recurrence. To
14 the contrary, his commitment to his well-being is evident. He completed both inpatient and
15 outpatient programs for alcohol abuse, and continued to see a therapist through April of 2021. He
16 has fully addressed his issues with alcohol since the night of the offense in Las Vegas, and was
17 able to preserve his marriage to his wife, Beth, by dedicating himself to improving his mental
18 health and overcoming his drinking problem.

19 **VII. The Effect on Mr. Carpenter and his Family**

20 While Mr. Carpenter has accepted the consequences of his conduct in Las Vegas without
21 complaint, the overall damage to him and his family is clear and concrete. Most visibly, he has
22 now been summarily dismissed as a Special Agent, a job he loved and at which he excelled. The
23 sting is sharper for having come almost five years after the conduct itself, during which Mr.
24 Carpenter continued to serve with distinction with his superiors' full knowledge of his mistake in
25 Las Vegas.

More profound are the effects on his family. During the five years that this matter has
been pending, he and his wife have suffered immense stress, and Beth's health has deteriorated

1 and required multiple hospitalizations (including as recently as August 9). He and Beth have
2 wanted to start a family for years, but have delayed their plans because of the consistent
3 uncertainty whether there would a prosecution or employment action. Now, both time and
4 Beth's health threaten the possibility of their ever having children. All of that is sanction
5 enough, and there is no need for any additional deterrence.

6 **VIII. Conclusion**

7 On July 29, 2017, FBI Special Agent Scott Carpenter made a tragic mistake that will
8 haunt him for the rest of his life. And for that conduct, he has paid a substantial price. He has
9 lost the job he loved, and he has pled guilty to a federal crime.

10 Equally important, Scott Carpenter knew he had made a grave mistake when he woke up
11 on July 30, 2017. He has spent the past five years doing what he could to right his wrong. He
12 promptly self-reported, addressed his underlying mental health issues, improved his personal life
13 and relationships, and remained an asset to the FBI until the dismissal prompted by his guilty plea.
14 He has fully accepted responsibility for his actions and is genuinely remorseful.

15 We respectfully ask the Court to sentence Scott Carpenter to a non-custodial sentence.

16 DATED this 10th day of August 2022.

17
18 */s/ Paul J. Fishman*

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