

The Honorable Ricardo S. Martinez

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

MARC SCOTT EMERY,
a/k/a "The Prince of Pot,"

Defendant.

NO. CR05-217RSM

UNITED STATES'
SENTENCING MEMORANDUM

The United States of America, by Jenny A. Durkan, United States Attorney for the Western District of Washington, and Todd Greenberg, Assistant United States Attorney, hereby files this Sentencing Memorandum.

I. INTRODUCTION

Through the years, and in various contexts, Marc Emery has meant different things to many people. But in the context of this federal criminal prosecution, Emery stands before the Court as many others have before him – as an admitted drug dealer who has entered a plea of guilty to a large scale marijuana trafficking conspiracy. Emery was the largest distributor of marijuana seeds, and thus marijuana, into the United States from approximately 1995 through July 2005, when he was arrested in Canada on an American extradition warrant. The U.S. Department of Justice brought this prosecution because of, and to put an end to, Emery’s unlawful drug trafficking inside the United States. To help accomplish this, we respectfully recommend that the Court sentence Emery to serve a term of five years in prison.

1 **II. SENTENCING GUIDELINES CALCULATIONS**

2 The government concurs with the Sentencing Guidelines calculations set forth in
3 the presentence report. Specifically, the total offense level is 29, Emery falls within
4 criminal history category I, and thus the advisory Sentencing Guidelines range calls for
5 imprisonment for between 87 and 108 months.

6 **III. UNITED STATES' SENTENCING RECOMMENDATION**

7 The parties entered into a plea agreement pursuant to Fed. Crim. P. Rule
8 11(c)(1)(C), stipulating to a sentence of incarceration for five years. The government
9 respectfully recommends that the Court accept the plea agreement and impose a five-year
10 sentence, which we submit is the appropriate sentence in this case.

11 Emery pleaded guilty to a serious federal drug crime that carries a statutory
12 mandatory minimum term of five years in prison. A five-year sentence in this case would
13 represent the longest sentence imposed in this District against a defendant who was
14 convicted for participating in the supply chain to marijuana grow operators. During the
15 past few years, the U.S. Attorney's Office has prosecuted several defendants for
16 knowingly supplying large quantities of grow equipment, seeds, plants, and/or other items
17 to marijuana growers. None of those defendants yet have been sentenced to serve as long
18 as five years in prison.

19 A five-year sentence in this case would appropriately reflect the enormous volume
20 of marijuana seeds Emery shipped into the United States. In his plea agreement, Emery
21 admitted to having sold more than 4,000,000 marijuana seeds for profits as high as
22 \$3,000,000 (CDN) annually. Approximately seventy-five percent of his customers were
23 located in the United States. Emery guaranteed at least a fifty percent germination rate
24 for his seeds, and this investigation confirmed that his seeds met or exceeded this mark.
25 Thus, Emery literally was responsible for supplying millions of marijuana plants to grow
26 houses in the United States.

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1 Emery's seeds (and plants) were traced to marijuana grow houses in every region
2 of the United States – from the West Coast (Washington, Oregon and California), to the
3 Mountain West (Montana and North Dakota), to the Midwest (Indiana, Illinois and
4 Michigan), to the South (Virginia and Tennessee), and to the East Coast (New York,
5 New Jersey, and Connecticut). Emery also sold all of the items necessary to grow
6 marijuana, including specialized lights, fans, electric timers, pots, and soil. Emery
7 distributed his marijuana seeds and grow equipment via mail and telephone orders to any
8 and all customers, without regard for their ages or criminal associations. This Court is
9 very familiar with the dangerous collateral criminal activities that too often surround
10 marijuana grow operations, including armed robberies, shootings, and even murders. It is
11 therefore not surprising that some of the grow houses Emery supplied with plants were
12 also associated with firearms and booby traps.

13 From the Department of Justice's perspective, the focus of this case always has
14 been, and should remain, on Emery's long term and repeated violations of the U.S. drug
15 laws. We seek a five-year sentence in this case because of the serious dangers Emery
16 posed to the community through his distribution of large volumes of a harmful controlled
17 substance which, in turn, fueled the potential for marijuana grow related violent crime.
18 The government's case was investigated and prosecuted without regard for Emery's
19 personal politics, his political agenda, or the ways in which he chose to spend the
20 proceeds of his drug crimes. We do not view those matters as particularly relevant to the
21 offense to which Emery pleaded guilty, or to the determination of the sentence that this
22 Court will impose.

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1 **IV. CONCLUSION**

2 For all of the foregoing reasons, the government respectfully recommends that the
3 Court impose a sentence of five years in prison, as well as the other sentencing conditions
4 recommended by the U.S. Probation Office.

5 DATED this 31st day of August, 2010.

6 Respectfully submitted,

7 JENNY A. DURKAN
8 United States Attorney

9
10 /s/ Todd Greenberg
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CERTIFICATE OF SERVICE

I hereby certify that on August 31, 2010, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the attorney(s) of record for the defendant(s). I hereby certify that I have served the attorney(s) of record for the defendant(s) that are non CM/ECF participants via telefax.

s/JANET K. VOS

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