

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

UNITED STATES OF AMERICA)	
)	
v.)	
)	CRIMINAL NO. CCB-18-276
DARRYL DE SOUSA,)	
)	
Defendant)	
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GOVERNMENT’S SENTENCING MEMORANDUM

The United States of America, by its undersigned attorneys, submits this memorandum in connection with the sentencing of the Defendant Darryl De Sousa and in support of its recommendation that he be sentenced to a term of incarceration of 12 months on each of the three counts to which he has pled guilty, to be served concurrently. This is the maximum penalty authorized by law for each count but is appropriate in light of the aggravating factors contained in the Defendant’s plea agreement, specifically, that he engaged in serial tax fraud for almost 10 years. Such a sentence is within the advisory guideline range of 10 to 15 months imprisonment, as calculated in the Presentence Report, and is sufficient but greater than necessary to achieve the goals of sentencing, as articulated in 18 U.S.C. § 3553(a).

Darryl De Sousa was a police officer for nearly twenty years, ultimately rising, briefly, to be the Fortieth Commissioner of the Baltimore Police Department (BPD). For half of that time, almost ten years, he also cheated on both his state and federal taxes, as described in the factual statement incorporated in his plea agreement.

He has pled guilty to three counts of failing to file an individual return for calendar years 2013, 2014 and 2015, but, as a result of investigation by the Internal Revenue Service (IRS) and

the Federal Bureau of Investigation, has admitted to manipulating his tax returns, at both the state and federal level, from 1998 to 2018. To be clear, the information contained in the factual statement to the plea agreement was not volunteered by the Defendant, it was uncovered by law enforcement.

Ironically, as a BPD officer for that entire period, he was drawing a salary funded by taxpayers in Maryland, as the BPD is a state agency and supported with state revenue, while simultaneously cheating the State of Maryland out of the taxes he owed.

This is a serious offense. The Defendant did not make a mistake or simply fail to take an action required of all citizens. He deliberately took steps to defraud the State of Maryland and the federal government. This is also a serious offense because tax fraud is, at its heart, theft. The victims are the honest taxpayers who work every day, abide by the rules, and pay their fair share as the law requires. As the Court knows, “[t]he United States has relied for the collection of its income tax largely upon the taxpayer’s own disclosures rather than upon a system of withholding the tax from him by those from whom income may be received.” *Spies v. United States*, 317 U.S. 492, 495 (1943). A functioning government relies on citizens to report timely, completely, and honestly all taxes they owe, which is why Congress has made it a criminal offense to file no return. *See id.* Indeed, as Justice Oliver Wendell Holmes stated, “[t]axes are what we pay for a civilized society” *Compania General de Tabacos de Filipinas v. Collector of Internal Revenue*, 275 U.S. 87, 100 (1927) (Holmes, J., dissenting). Deterrent messages sent by prosecutions of tax offenses, are, therefore, critical.

As a police officer the Defendant swore to uphold the law while, at the same time, he broke it. That speaks to his character.

He also falsely attempted to justify his actions on the day the complaint against him was unsealed, which speaks to his integrity. On May 14, 2018, on Twitter, the Defendant issued the following statement:



“I fully admit to failing to file my personal Federal and State taxes for 2013, 2014 and 2015. I did file my 2016 taxes and received an extension for my 2017 taxes. I have been working to satisfy the filing requirements and, to that end, have been working with a registered tax advisor.

To be clear, I have paid Federal, state and local taxes regularly through the salary withholding process.

While there is no excuse for my failure to fulfil my obligations as a citizen and public official, my only explanation is that I failed to sufficiently prioritize my personal affairs. Naturally, this is a source of embarrassment for me and I deeply regret any embarrassment it has caused the Police Department and the City of Baltimore. I accept full responsibility for this mistake and am committed to resolving this situation as quickly as possible.”

His statement was false in a number of respects, most significantly, his self-serving claim that, “my only explanation is that I failed to sufficiently prioritize my personal affairs.” The conduct the Defendant admitted to goes far beyond “fail[ing] to prioritize his personal affairs.” As he now admits, he actively manipulated his taxes for a decade. In fact, he prioritized his personal affairs, his own financial affairs, too much and placed them ahead of his obligations to pay taxes. His statement was also particularly cynical because he declared publicly, “I have paid Federal, state and local taxes regularly through the salary withholding process,” while he had actively manipulated the withholding process to reduce the amount of money that should have been withheld from his salary. Beginning in 1999 he reduced the amount of money withheld

from his state and federal taxes, by falsely claiming nine (9) allowances. This might seem like a temporary way to avoid paying taxes because a taxpayer who files an accurate return would, when s/he filed that return, have to make up for the under-withholding, and maybe even pay penalties.

The Defendant, however, when he actually filed a tax return, which he didn't always do, falsely claimed deductions on those returns, which reduced the amount he owed. When he filed his federal and state income taxes for calendar years 2008 through 2012, he falsely claimed deductions for unreimbursed employee expenses, when he had no such expenses; mortgage interest deductions and deductions for local property taxes, when he did not have a mortgage or own any real property; business losses, when he did not operate any businesses; and charitable contributions, in both cash and in items, that he did not make.

By virtue of these improper deductions, De Sousa was able to artificially reduce the amount of taxes he owed to the IRS and the State of Maryland in the amount of more than \$67,000. How he accomplished this is described, in detail, in his plea agreement.

In this sentencing proceeding, there is also a need for a deterrent message to be sent to other members of the BPD who engage in the kind of tax fraud that the Defendant was caught committing. The IRS and FBI learned in the course of their investigation in this case and in the investigation of the BPD's Gun Trace Task Force that other BPD officers engaged in similar conduct. For example, Jemell Rayam, the last GTTF officer that this Court will sentence, falsely claimed deductions for charitable giving and for unreimbursed employee expenses, the same fraudulent deductions that the Defendant claimed. That is not a coincidence. It is our understanding that the practice of taking these fraudulent deductions was information that was shared among officers at BPD.

The Defendant disgraced himself but his conduct also had an impact on the BPD and, as a result, the wider community, as well. A Police Commissioner who breaks the law further undermines the confidence of citizens that the BPD will follow the law in its policing. The BPD also needs permanent leadership at this challenging time for the Department and the City of Baltimore. Because of the Defendant's crimes it has been without one from May 2018, when the Defendant was charged, until just this week, when a new police commissioner was confirmed by the City Council. The Defendant will undoubtedly highlight the good work he has done for the BPD over his career but the negative collateral consequences of his crimes on the Department at this critical time must also be considered.

In sum, a sentence of 12 months is just punishment for the Defendant's actions. It will send a deterrent message that no one is above the law, not even the Commissioner of the Baltimore Police Department.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of the foregoing Government's Sentencing Memorandum were sent electronically to counsel for the Defendant and the U.S. Probation Officer.



Leo J. Wise
Assistant United States Attorney