

ORIGINAL

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

FILED
U.S. DISTRICT COURT
NORTHERN DIST. OF TX.
FT. WORTH DIVISION
2007 JUL 2 PM 3:58
CLERK OF COURT

UNITED STATES OF AMERICA

v.

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4:07-CR-024-A (01)

JOSEPH ARTHUR BOLTON (1)

**DEFENDANT'S MOTION FOR DOWNWARD DEPARTURE
AND IN THE ALTERNATIVE, REQUEST FOR SENTENCING VARIANCE**

COMES NOW, JOSEPH ARTHUR BOLTON, defendant, by and through his attorney of record and hereby files this motion for downward departure and, in the alternative request for sentencing variance and shows as follows:

I.

Counsel moves this Court to consider a downward departure from the advisory guideline sentence on the grounds that the defendant Bolton suffered from a significant reduced mental capacity, and that reduced mental capacity contributed substantially to the commission fo the offense. Specifically, Mr. Bolton has been examined by Dr. Antoinette R. McGarrahan, Ph.D., a clinical psychologist. Dr. McGarrahan has determined that Mr. Bolton has a full scale IQ score of 64, which falls in the mildly mentally retarded range. Dr. McGarrahan's report, as well as the pre-sentence investigation report, indicate that Mr. Bolton has a significantly limited mental capacity. The facts of this case indicate that Mr. Bolton participated in the discussions that resulted in threats being made against the President of the United States as a result of his attempt to impress the confidential informant. The facts strongly support the conclusion that Mr. Bolton would not have

participated in these discussions but for his significantly reduced mental capacity. Accordingly, a downward departure pursuant to U.S.S.G. §5K2.13, or, in the alternative, that a sentencing variance is warranted due to Mr. Bolton's reduced mental capacity.

II.

Other factors that the court should take into account in determining whether a downward departure or sentencing variance is appropriate are: 1) The defendant Bolton has provided assistance to the government in the prosecution of this case, specifically submitting to interviews at the time of his arrest and after his guilty plea; and 2) the advisory guideline imprisonment range does not take into account the fact that it is highly improbable that Brantley or Bolton could have carried out the threats on the President, and it is highly improbable that Mr. Bolton would have actually attempted to carry through with any of those threats. Guideline section 2A6.1 does not appear to take this factor into account in determining the advisory guideline range. See U.S.S.G. §5K2.0(a).

Wherefore, the defendant prays this Court consider a granting downward departure from the advisory guideline range in this case, or, in the alternative, consider imposing a sentence that varies from that advisory guideline range.

Respectfully submitted,

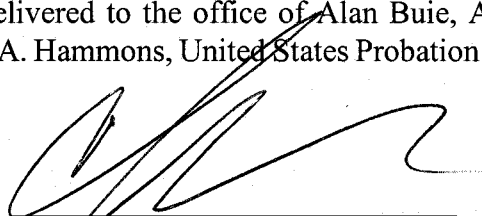
RICHARD A. ANDERSON
Federal Public Defender
Northern District of Texas

BY: 

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CERTIFICATE OF SERVICE

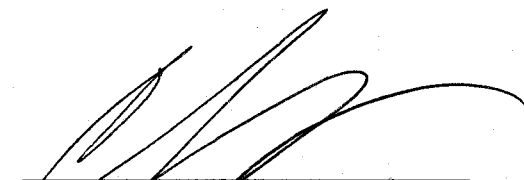
I, Chris Curtis, hereby certify that on this the 2nd day of July, 2007, a copy of the motion for downward departure was delivered to was hand delivered to the office of Alan Buie, Assistant United States Attorney, and to the office of Colleen A. Hammons, United States Probation Officer.



CHRISTOPHER A. CURTIS

CERTIFICATE OF CONFERENCE

I, Chris Curtis, hereby certify that I attempted to confer with Alan Buie to determine if he was opposed to this motion, but was unable to contact him..



CHRISTOPHER A. CURTIS