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STUART GOLD

June 8, 2021

VIA ECF

Honorable Kimba M. Wood
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: United States v. Goldstein, 18 CR 217 (KMW)

Dear Judge Wood:

On February 27, 2020, we filed our original sentencing memorandum on behalf of Jeffrey Goldstein where we asked the Court to impose a 15-month prison sentence. In making this request, counsel noted that 15 months was a fair, reasonable and appropriate sentence considering Goldstein's role in the offense conduct and his individual circumstances (including significant family challenges) that warranted a substantial downward variance from the Guidelines.

Then the Coronavirus struck and, in an instant, everyone's world was upended. The ensuing year was hard on everyone, and particularly hard for the Goldstein family. As detailed below, the Goldsteins, who were on poor financial footing before the pandemic, were forced to declare bankruptcy and sell their home. As a result, Goldstein has no choice but to uproot his wife and two youngest children and move to Maine to live with his in-laws. The ramifications of this move will be significant: Goldstein's wife will lose her job in NYC; the youngest Goldstein children (ages 7 and 3) will need to change schools and will be separated from their older siblings; and Goldstein's hemophiliac son will not be able to continue his treatment at the Weill Cornell Hemophilia Center in Manhattan.

These issues, which have weighed heavily on the Goldstein family, will become insurmountable if Goldstein is sentenced to a prison term and his wife will be forced to raise and support the family on her own. Consequently, because of these changed circumstances, we are

BRAFMAN & ASSOCIATES, P.C.

now respectfully modifying our sentencing request and asking this Court to impose a probationary sentence with a period of home incarceration.

Moreover, we are requesting a probationary sentence not just because of the potential devastating effects on the Goldstein family, but also because of the type of person that Goldstein has again proved himself to be since the pandemic started. As detailed below, despite the hardships at home, Goldstein demonstrated his compassion and selflessness in the last 16 months by offering—in the height of the pandemic—to serve as reserve staff for area hospitals and traveling across the United States to administer Covid testing when few others were willing to do so. Goldstein also volunteered for the American Red Cross to help those in need by volunteering at shelters, food pantries and blood centers. Because of Goldstein’s personal characteristics (as detailed in this letter and in our original sentencing memorandum) and the changed family circumstances, we now respectfully request a probationary sentence with a period of home incarceration.

A. The Effects that Covid Has Had on the Goldstein Family

Even prior to Covid, Goldstein struggled to provide for his family after losing his medical license because of his conduct in this case. Without his income as a doctor, Goldstein had difficulty paying child support for his two older children (14-year-old daughter and 10-year-old son) and providing for his two younger children (7-year-old son and 3-year-old son) with his wife Christine. As the Department of Probation noted in the Presentence Report: “It is not lost on us that the defendant has already received some penalization for his conduct, in that he can no longer practice medicine and his livelihood has significantly diminished.” (PSR Addendum at p. 38.)

To provide for his family as best he could, Goldstein started working in late 2019 as driver for both Uber and Lyft throughout Westchester, New Jersey and neighboring Connecticut. Goldstein’s wife, Christine, explains in an updated letter how Goldstein tried to make ends meet:

Around the end of the 2019, Jeffrey had started driving for Uber and Lyft. He would put in long hours and the pay wasn’t that great. After the cost of gas, it really wasn’t much he took home, although it was better than nothing. He was trying by any means he could to make whatever money before his sentencing date. The mental barrier he had to cross going from a physician to an Uber driver was something Jeffrey was over fast when it came to providing for his family. I don’t think it’s an easy task, but certainly one Jeffrey was ready for.

(Ex. A: Christine Cloutier Goldstein Updated Letter at 1–2.)

A few months later, however, his work as a driver all but dried up as quarantine and Covid travel restrictions forced people to stay inside and not venture out. The pandemic also prevented the Goldstein family from getting assistance from family and friends. As Christine explains:

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Our lives have changed drastically since March 2020 as Coronavirus has eliminated my options. Any help I thought I could get from my mother-in-law for my four children, she is no longer an option. Being in her late seventies with a list of health concerns, she has been isolating herself with limited exposure to the outside world. Other family and friends nearby also have their own concerns about exposure and safety measures and could not be a reliable source. My mother in Maine is also a high-risk person, and my father in Florida, who works himself has had limited income ability and I feel I would be nothing but a burden.

(Ex. A: Christine Cloutier Goldstein Updated Letter at 1.)

The Goldstein family continued to live off savings as long as they could but eventually had to declare bankruptcy in July 2020. The loss of sustainable income also prevented Goldstein from remaining current on his home mortgage. Because of the mounting bills, Goldstein was forced to sell his home in March 2021, and is scheduled to close in late June 2021. Once the house is sold, Goldstein, his wife and two youngest children (ages 7 and 3) will need to move in with his mother-in-law in Maine because they cannot afford another place to live. Unfortunately, Goldstein's wife will lose her job when she relocates, and their two sons will need to switch schools (after an already tumultuous school year because of Covid). Sadly, the move will also stunt the relationships between Goldstein's younger children and his two older children (ages 14 and 10) who live with Goldstein's ex-wife in NYC.

Importantly, Goldstein's son, E.G.—who continues to suffer hemophilia episodes—will be far removed from his Hemophilia Center at Weill Cornell in Manhattan. As noted in the original sentencing memorandum, Goldstein himself would normally administer the plasma protein infusions that E.G. needed every time he was injured, which was a common occurrence given the young boy's active nature. If Goldstein is imprisoned, Christine would either need to administer the shot herself (which she has tried and oftentimes failed to do when Goldstein was not around) or need to take their son to either a nearby Hemophilia Center in Maine (the closest one being 45 minutes away in Portland, Maine), assuming such injury happened during office hours, or, more likely, would have to take E.G. to a hospital proficient in treating this particular blood disease. As Christine notes in her letter, it is her son's Hemophilia that keeps her awake at night:

I often lay awake in bed worrying what will happen to our son with Hemophilia. With Jeffrey around, I could relax because I know he is able to take care of our son if he should injure himself and need an infusion. There have been times when I have tried to administer the shot myself, but have unfortunately failed. I am scared that, if Jeffrey is not around, I will fail our son when he needs me the most and will have to live with those consequences. That, more than anything else, is what keeps me up at night.

(Ex. A: Christine Cloutier Goldstein Updated Letter at 2.)

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All of these issues that the Goldstein family faces will be significantly increased if Goldstein is removed from his family and sentenced to prison. Because of his pending sentencing, Goldstein has not yet been able to transition to a new field where he can support his family. If sentenced to probation with home confinement, Goldstein can start moving on with his life and find employment. This would significantly relieve the financial burdens on the family, especially once Goldstein's wife loses her job when the family relocates to Maine.

B. Goldstein's Conduct During the Covid Pandemic

New York State announced its first Covid case on March 1, 2020. Within a week, New York Governor Andrew Cuomo declared a state of emergency. In a matter of days, New York hospitals were overrun and understaffed. On March 19, 2020, Governor Cuomo called on recently retired health care professionals to sign up to be part of a reserve staff to assist area hospitals in responding to the COVID-19 medical crisis. Counsel and Goldstein started reaching out to the NYS Office of Professional Management and numerous politicians (including Governor Cuomo's office) to see if there is any way Goldstein can assist in the crisis despite surrendering his medical license following his guilty plea. Goldstein was eager to help with the medical crisis any way he could and hoped to use his specialization in Emergency Medicine at any local hospital.

While awaiting a response from the Office of Professional Management (which ultimately denied the request), Goldstein assisted in the crisis by working with Sollis Healthcare (a medical clinic in NYC) to administer COVID-19 tests all over the US. Goldstein—conducting tasks suited for a technician, not a doctor—helped Sollis Healthcare administer tests in NYC, Long Island, Chicago and other cities. Goldstein started administering tests in late March 2020, as the pandemic was gaining speed in New York. Because of his constant exposure to Covid-positive patients, Goldstein would often have to quarantine himself from his family, which, as noted by his wife, caused additional stress and hardship for the family:

I'm proud to say that Jeff has used this time since the beginning of the pandemic to help by testing people for the active Covid-19 virus. He has been on the front lines since late March 2020, putting his own health at risk to help others. As a family, we supported his decision to make the wellbeing of our society a priority. It was not without difficulty though, as Jeffrey would constantly need to quarantine. This was difficult for my children who did not understand why they could not hug their father and why they had to FaceTime instead of speaking with him. Since he kept his distance from the family, it was a small dose of what it would be like without having him around and having him not around while actually being around was hard enough.

(Ex. A: Christine Cloutier Goldstein Updated Letter at 2.)

Goldstein continued to help others during the pandemic by starting to volunteer for the American Red Cross in April 2020. Since then, Goldstein has volunteered approximately 250

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hours by assisting in shelters, food pantries and blood centers. Goldstein also assisted as a case worker, helping displaced people find places to live and eat, as well as helping them find employment, transportation and childcare. Goldstein also provided referrals for mental and physical healthcare needs. The Red Cross recognized Goldstein's volunteer work in a May 21, 2021 Letter, noting:

We want to take a moment to thank you for your invaluable service to the American Red Cross Greater New York Region during fiscal year 2021. - We want to express our gratitude to you for your unending dedication as nobody could have anticipated the trials and tribulations faced this past year. The incredible commitment of all our members in the face of multiple challenges has been nothing short of awe-inspiring.

. . . . It is thanks to the incredible efforts of volunteers like yourself that our organization has been able to weather the storm of the past year, and the compassion shown by all of our volunteers demonstrates the strength of One Red Cross to answer any challenge, no matter how great. Thank you for being an integral part of this journey-together, we can help forge the path to brighter times ahead!

(Exhibit B: American Red Cross 5/21/21 Letter.)

In addition to his work for the Red Cross, Goldstein is also signing up to join the Committee for Physician Health (a division of the NYS Medical Society), an organization that provides voluntary, non-disciplinary assistance to physicians and medical personnel suffering from substance abuse and related issues. Having struggled with substance abuse as a doctor, Goldstein is eager to use his experiences to help others with the same struggle.

Conclusion

Based on the changed family circumstances because of Covid, Goldstein's continued good works and the reasons set forth in our original submission, a probationary sentence with a period of home incarceration is a fair and reasonable sentence given the specific Section 3553(a) factors of this case.

Respectfully submitted,



Marc Agnifilo, Esq.
Jacob Kaplan, Esq.