

1 way. It's not rational, but then emotions rarely are.
2 Depression isn't rational. Anxiety isn't rational. Don't
3 tell somebody with an anxiety attack it's just anxiety.
4 They're convinced they're dying. Lisa Allegra too often in
5 Bob's presence saw that anxiety, that fear, and that was the
6 reality of his life.

7 He had made a loan of some substantial money,
8 legitimate loan, to someone at a time when they started to
9 have reversals in their financial well-being. Say, well, how
10 could you have that when you have all this money and this
11 house and these other things? Well, things are relative, and
12 it takes a lot of money to continue to promote those things.
13 There is a big mortgage on that. There is a huge payment on
14 those cars. They're not free and clear. And then there was,
15 in particular, one loan, and Mrs. Allegra was fixated on it
16 and was angry that her husband could be so foolish as to give
17 away their money to someone without any real collateral,
18 without any real certainty that he would get it back, at a
19 time when things were turning for the worse.

20 And the pressures and the confluences of a daily
21 anxiety, a depression, a loss in health, and we all know that
22 stress can exacerbate any health problem. And, in this
23 situation, it was literally death-defying for both of them.
24 For different reasons, but for both of them. And at some
25 point Bob says, you know, I'm -- something has to make a

1 turnaround, even if it's stupid and wrong, because I can't
2 live like this anymore. She can't live like this anymore.
3 I've got to come back and at least be a winner today. I've
4 got to be successful today. It doesn't matter what the
5 realities are, the emotion is crushing. And he makes that
6 leap; and in so doing, falls from grace. And if people think
7 that Bob Allegra is not contrite down to the bone marrow,
8 they don't know him. He is sometimes blunt and he sometimes
9 says exactly what's on his mind, but -- and I understand that
10 talking to a probation officer and hoping that somehow in
11 talking with the probation officer about probation that maybe
12 they'll understand how desperate the situation is at home,
13 how desperate you are, how desperate, sorry, and, yes, sway
14 the judgments. But to suggest that somehow that reflects
15 adversely on his contrition, when your Honor has letter after
16 letter after letter talking about how he has bared his sole
17 to colleagues, friends, and his son, his miracle boy, and
18 told him how disgusted he is in himself is to belie the
19 essence of regret, remorse and contrition.

20 And I'm in my 43rd year in this business, and I
21 can't think of a single case -- and if anybody could, I
22 could -- where an individual who was getting sort of upper
23 middle age, or so, who had been non-violent and who had pled
24 guilty, didn't somewhere entertain, no matter how unlikely
25 the hope in their heart of hearts, the whisper of probation

1 because they all do. And who could blame them? Who could
2 blame them? How do we -- how do we criticize an individual
3 because he hopes against hope for something like that and
4 says it out loud? Doesn't mean that he doesn't realize how
5 badly he has messed up. Doesn't mean that at all.

6 Now, I have a bit of a summing up, but those are
7 the matters I wished to address with your Honor. Carolyn has
8 matters that I know she would like to address with the court.
9 And I am extraordinarily grateful for both your Honor's
10 patience with me, and particularly some of the grimacing I've
11 maybe showed. I tried not to.

12 THE COURT: You haven't done that. You have been
13 all talking for an hour and a half.

14 MR. STEINBACK: I'm sorry about that. I sometimes
15 tend to do that. But I'm grateful that your Honor heard me
16 through, and I will turn it over to my far wiser, better
17 colleague.

18 THE COURT: Go ahead, unless somebody is wanting a
19 break.

20 MS. GURLAND: That's what I was waiting to see.

21 THE COURT: Does anybody want a break?

22 MR. OTLEWSKI: No.

23 THE COURT: Okay. Go ahead.

24 MR. STEINBACK: Your Honor, would it be all right
25 if I could just walk around to the back of the courtroom just

1 to move?

2 THE COURT: Sure, go ahead.

3 MR. STEINBACK: Thank you.

4 MS. GURLAND: Good morning, your Honor.

5 THE COURT: If you can get around here.

6 MS. GURLAND: Or afternoon, I should say. I have
7 two letters that just came in late. One is actually dated
8 the 14th of July, one is dated the first, but it was
9 redrafted and not re-dated. If I could hand them up to your
10 Honor to add to the letters that I know -- I'm hopeful that
11 your Honor has received?

12 THE COURT: Yes, I have.

13 MS. GURLAND: Thank you. Your Honor, I did not
14 meet Bob Allegra in a law office or in connection with my
15 practice. I met him actually on the football field last
16 Fall. It turns out Bob and I live in the same community, and
17 his nine-year-old son plays Falcon football with my
18 nine-year-old son. And when I go to -- when I go to the
19 games, I'm just a spectator at the side lines, but Bob is
20 actually on the field at every game because he is holding the
21 first-aid kit. So he is in charge of whether or not some of
22 the boys have a cut or a scrape or some kind of abrasion, or
23 worse, as I'm sure many people have become aware that there
24 is a serious concern about head trauma and concussion. And
25 Bob Allegra is the one who the football program has selected

1 to be in charge of looking after the boys. One of the
2 reasons that they do that is because he is incredibly
3 responsible, in that he is at every single game, which, in
4 light of what Mr. Steinback was talking about, about sort of
5 a punishing work schedule, with things coming up at the last
6 minute, taking opportunities to fly people places.
7 Notwithstanding that, he has never missed a single -- a
8 single game, and he is the one that the coach relies on. I
9 think that you saw a letter from the coach himself, who is
10 Matt Riordan, who explained that that was Mr. Allegra's role
11 in the community. And so for the parents in the community,
12 who are understandably nervous about their boys playing real
13 tackle football, Bob's presence is not just reassuring, it's
14 actually critical. And he is there -- he is there all of the
15 time.

16 But I don't -- in this case, I don't want to just
17 talk about my experience of Bob, although I have that direct
18 experience. I want to talk about what I've come to learn as
19 his counsel. And what I've come to learn through reading the
20 letters and coming to even meet with and talk to some of the
21 people who have come forward to support Bob and to write to
22 the court on his behalf and who wanted, many of them, to
23 speak to the court on Bob's behalf, is that Bob's life --
24 other than the facts of this case, Bob's life has been one of
25 just extraordinary kindness and generosity and charity. And

1 I want to talk about some -- several aspects of that. And I
2 want -- when I do that, your Honor, I'm not going to focus on
3 as was in the *Ty Warner* case. I mean, a lot of the
4 information in that case was sort of donations that he made
5 and money that he gave and sort of certain Beanie Babies that
6 he created and then marketed them and donated some proceeds.
7 What I want to focus on -- and for which he got, you know,
8 substantial -- more than 50-month departure. But what I want
9 to talk about are the instances in which Bob really gave not
10 just money but really gave of his time, his care, and of
11 himself because I think that, when you're evaluating
12 charitable works and kindness and generosity, that those
13 instances and not writing a check out of the checkbook are
14 the circumstances that are the most important in getting to
15 know who somebody is as a person.

16 But before I go into that, I want to just briefly
17 talk about some aspects of Bob's personal life. And I won't
18 retry the same territory that Mr. Steinback discussed. He
19 married his wife, Lisa, late in life. I think he was 54, she
20 was 44 at the time. They didn't -- they hoped but didn't
21 believe that she would ever be able to get pregnant, and she
22 did. However, she miscarried the baby after many months had
23 gone by. At that point, they were absolutely sure that they
24 were never going to be able to have another child. But,
25 miraculously, Lisa became pregnant. The pregnancy itself,

1 because of her severe diabetes, was enormously complicated,
2 deemed a high-risk pregnancy, not just because of her age,
3 because I think 44 is considered fairly advanced age for
4 childbirth, but because of the very serious diabetes.

5 When she gave birth to their son, she suffered
6 internal hemorrhaging during the time that she gave birth,
7 and she actually was so ill that she wasn't able to see her
8 son for five days, not at all. She was in critical care.
9 Her son also was in critical care, went to NICU at
10 Northwestern, the Natal Intensive Care Unit. And during that
11 time was I think the beginning of the time that Bob's bond
12 with his son began because he was the one that went and sat
13 with his son, held him. He was the one who learned all of
14 the care and feeding and all of the new things that you have
15 to learn about taking care of a baby. And he embraced it.
16 At the same time, he was tending to Lisa and her health
17 conditions and being very nervous and upset about her
18 potentially life-threatening condition.

19 And that really has been sort of the theme. It was
20 set even at that time, but that was the theme because Bob's
21 whole life has been about taking care of and protecting Lisa
22 and his son. And you heard Mr. Steinback talk about this
23 busy work schedule. But notwithstanding that, many letter
24 writers have affirmed, and I have actually witnessed, that
25 there has never been a sporting event, some kind of important

1 event, that Mr. Allegra has missed when it involved his son,
2 Alec. His son, sorry.

3 One of the letters that I just gave to your Honor
4 was from an individual that does some kind of training in
5 Marshal arts. And one of the things that -- one of the
6 things that Bob does with his son is he takes him for some
7 kind of training. And at the bottom of the letter, what this
8 Grandmaster Tsai writes of the relationship, and this is just
9 based on just not what he thinks might happen, but this is
10 just based on his personal observation of Bob together with
11 his son. He says, "They're referred to as frick and frack.
12 I have witnessed in training both father and son together,
13 that Bob and his son personify the best of a father-son
14 relationship: Loving, respectful, playful." It is clear
15 that Bob is very conscious about his mentorship of his son,
16 focused all the way on guiding him to become the best young
17 man possible. He is succeeding in this endeavor, along with
18 his wife, Lisa.

19 And I think, included in some of the -- Mr. Allegra
20 did not want his son, given the sensitivity of his age and
21 these circumstances, to be writing a letter to the court. He
22 thought that that was just a bit much to ask. What he asked
23 instead that I do is include just some letters or some papers
24 from his school project. And I won't go through all of them,
25 but I would note that, when the nine-year-old son was asked

1 about who his hero was in this world, he said his hero was
2 his father because that was his hero and it was because he
3 protects him. And he does. I mean, it's something that you
4 could read about, but it's also something you could witness
5 as I have because you could be -- you could be sitting in a,
6 I don't know, a pool, you know, around a pool area because
7 we're in the same town. And, you know, I could try to talk
8 to my children who walk by me as I'm not even standing there,
9 and his son runs over, you know, soaking wet and hugs him.
10 Anyway. It's extraordinary. It is extraordinary.

11 In addition, Bob has been an absolute rock for
12 Lisa. She has been through nine surgeries in seven years.
13 And as Mr. Steinback explained, she has diabetes that is
14 absolutely out of control and unpredictable, and it plagues
15 her every day of her life.

16 In addition to that, Bob is taking care of his
17 93-year-old mother. She lost her husband, Bob's father, when
18 he was relatively young, just 69 years old. He died of
19 bladder cancer. And from that time, she has been
20 increasingly dependent on him, now almost entirely dependent
21 on him. And as many of the letter writers have attested to,
22 there has never been a day that he didn't call her. And he
23 has really been the one to give her some excitement, some fun
24 in her life, you know, taking her to travel and doing the
25 things with her that she might have been able to do, had her

1 husband had not passed away so early.

2 Mr. Allegra's commitment to other people also
3 extends to employees. He actually employs four people full
4 time, currently. And an interesting thing is that one of the
5 people that he employs is a young woman who lost her husband
6 early in life, and she did not have the means to take care of
7 her family. And she came to Bob. He hired her on the spot,
8 and she has worked with him to this day. And initially I
9 thought of that that this isn't an important thing to raise
10 because of the fact that he did this and gave this
11 opportunity to the woman. But I think even more so than
12 that, it's interesting to note that she -- when she was in
13 that kind of trouble and she knew that she was in dire
14 straits, she knew immediately who she should go to. She knew
15 that she should go to Bob Allegra because his reputation of
16 generosity and kindness preceded him. And she was right.
17 And he took care of her.

18 In talking about -- so I want to talk about
19 charitable contributions in two different ways. The first is
20 that Mr. Allegra has had certain involvement with organized
21 charities. But when I say organized charities, I mean not
22 just writing checks but talking about actual -- actual
23 involvement. And it's interesting because, in looking at the
24 letter from Earl O'Malley, who must be quite elderly by this
25 time because he was a teacher of Bob when Bob was a junior

1 and a senior in high school. And hopefully your Honor has
2 that letter and read it. His charity didn't begin just
3 recently. His charity began when he was a leader in high
4 school. So Earl O'Malley wrote that he developed and
5 implemented a program for rehabilitation and physical
6 education for children who were physically handicapped, who
7 had Down Syndrome, emotional disturbance and special needs.
8 And so this educator designed the program, but what he really
9 needed was a student leader who would be in charge of
10 implementing the program. And this happened, as I said, when
11 Bob was a junior and senior. And Earl O'Malley wrote all
12 these letters of Bob, he wrote, and I quote from the letter:
13 "Bob has always cared about each student and did an excellent
14 job assisting and supporting their efforts and successes."
15 And that I think is remarkable but also speaks to the fact
16 that his character and his charity and his kindness is not
17 anything that was recently -- that he came into recently, but
18 it really is a part of who is Bob Allegra.

19 After he became a pilot and he put himself through
20 flight school because his parents were not able to help him
21 financially to do that, he has consistently used his piloting
22 skills to benefit worthy causes. And when he does this,
23 there were several letters talking about that he donated
24 flights. But just to be clear, when he donates a flight, I
25 mean, he is there doing the flying. So he is donating his

1 time to do it. And he is also donating certain things that
2 cost money, I mean, the logistics of finding a copilot and
3 paying for the fuel. So there is a cost to him, but mostly
4 of his time because, when he donates these flights, he is in
5 charge of managing these flights. And he has done that on a
6 number of occasions, once was for a group called Agape which
7 deals with assisting children in India who are in the midst
8 of poverty. He donated that to -- a fundraiser that he
9 actually had for Agape in his own home. He hosted the
10 fundraiser and then donated that. And you have the letter in
11 which the chairperson of the committee raising money for that
12 organization wrote that this prize of flying six people to
13 New York was the best prize offered. And it doesn't matter
14 how much money it raised, but I'm sure it raised a
15 substantial amount of money.

16 He did the same, donating a flight for eight to the
17 Kentucky Derby. And that was to raise money for the
18 University of Chicago Diabetes Center, which, of course, is a
19 cause near and dear to his heart because of his wife's
20 suffering as she does with that disease. He did the same
21 with a flight to Indy 500. And that benefited neglected and
22 abused children. And as with the others, he donated himself,
23 his time, his organizational skills to make this happen and
24 to make a real difference for these organizations.

25 Two other charities, organized charities, in which

1 he has been deeply personally involved, one is the Canines
2 for Veteran Warriors, and we have a letter, I think it's from
3 Mr. Tellerino, who wrote about Mr. Allegra's contributions
4 there. The canine organization, what they do is they go to
5 animal shelters, and they get, you know, neglected animals,
6 and then they spend a great deal of time training them. And
7 then the animals become companions for wounded warriors who
8 have post-traumatic stress syndrome and the dogs act as
9 companions. So Bob has been not just somebody who has
10 glancing familiarity, but, indeed, the executive director for
11 many years of the organization and deals with all kinds of
12 organizational issues for them. But, in addition, he
13 regularly calls just asking, is there anything that he could
14 do. Can he help transport a dog. Can he transport a person
15 to a dog, or a dog to a person. And has gone out of his way
16 to make sure that if there were any needs that organization
17 had that he was ready, willing and able to fulfill them.

18 He has also been involved with the honorable deputy
19 program. And that is a program that deals with the fallout
20 from bad things that happen to these people, to their
21 families when something -- something tragic happens to one of
22 our first responders. So there were two instances mentioned
23 in the letters. One is that they have, during the holidays,
24 sort of a gift drive. And it was Richard Cappadona who wrote
25 a letter explaining that Bob doesn't just donate things, but

1 he stands -- he goes with him to the events when they're
2 giving out things to the children, and he stands there
3 alongside him. There were two sort of I think extraordinary
4 instances. One, when Bob learned that -- a first responder,
5 sort of police officer, something of this nature, passed
6 away, he donated immediately to help the family, and he also
7 found 20 businessmen in the area who also donated to help the
8 family.

9 And so one of the things that I think bears
10 remembering, if you look at -- I know there has been some
11 discussion of assets or wealth or contacts. But, you know, I
12 think it is important to think about what good Bob has done
13 with those contacts and with those people because he
14 hasn't -- he has actually been able to have -- to make a
15 greater impact with people that he was helping because of
16 getting people in the community who also were businessmen to
17 stand up behind the causes that he knew were important.

18 Then, in another instance like that, there was a
19 police officer, I think he was from South Florida, found
20 himself in New York and was in a coma. And Bob immediately,
21 I think just personally, made sure that his family could all
22 be transported to be next to him.

23 He also met a Ghanaian citizen called Moses Yan
24 Aidoo, who has I think some kind of status in Ghana, which I
25 don't understand. But, in any event, he is very involved

1 with this individual. Mr. Aidoo is involved with a plight of
2 poor children in Ghana. And Bob listened to what he was
3 doing there, wanted to know more about it, wanted to maybe
4 get involved in it. And since that time, Bob now finances
5 ten children in Ghana. He finances the cost of their
6 schooling and gives -- I mean, for these children, just
7 absolutely critical, critical support because it's an
8 opportunity to change their lives.

9 So -- and the last -- the last person I wanted to
10 tell you about, and last charity, I guess this is more of an
11 individual charity, but there is a suburban cab driver. And
12 Bob met the suburban cab driver, just as any of us might.
13 He, you know, called for a taxi to go to an airport. And so
14 Richard Khan showed up. And he wrote a letter to the court
15 about this friendship that he struck up with Bob. And he
16 described it as a junior-senior brother relationship. But I
17 think it really goes to the fact that, you know, although Bob
18 does know businessmen and probably fly people that have some
19 amount of excess money, he also is not -- he is not an
20 elitist. He became fast friends with this fellow who
21 wrote -- I mean, not in perfect English, but wrote, "He
22 treated me no different." And then talked about the fact
23 that he invited Bob to a fundraiser for child abuse and AIDS,
24 and he didn't even think that Bob was going to donate
25 anything, much less go. And then Bob shows up at the

1 fundraiser, and he brings his wife. And I think in a sense,
2 although it wasn't spoken this way in the letter, I think
3 there was a real sense in which Mr. Khan really felt as if --
4 he felt honored and he felt pleased that Mr. Allegra had made
5 such a personal effort. And I think it's not an aberration,
6 it's just exactly who he is.

7 There is also a type of personal charity which is
8 not supporting worthy organizations, but more along the lines
9 of just helping the people that you run across in your
10 pathway when and how you can. And that's something that
11 Mr. Allegra has done just absolutely consistently.

12 He had a friend called Joe Cece who wrote to the
13 court. "Bob cares deeply about other people and is always
14 the first one to lend a hand to people in need, regardless of
15 their station in life and without regard to whether they
16 would ever be able to do anything in return. In my view, the
17 true mark of a truly charitable person."

18 And I want to talk about just one or two examples
19 of that. There was a fellow by the name of John Banner who
20 wrote to the court. And he -- I guess he was re-fueling --
21 he is also a pilot. He was re-fueling a jet in Wheeling, and
22 he took a phone call, and he learned that his 21-year-old son
23 was dead. And as he wrote in his letter, he couldn't think,
24 he couldn't reason, and he felt absolute panic. Bob stopped
25 whatever he was doing, and he got himself to that airport.

1 And not only did he comfort his friend, but he just took
2 over. Bob just took over. He made all of the arrangements
3 for the funeral. He made all of the arrangements about who
4 was going to get where to get home. He just took care of
5 absolutely everything in a minute in which John Banner could
6 absolutely not have done it for himself. And there was
7 nobody else other than Bob Allegra, not his brothers, not his
8 cousins, not his best friend, but Bob Allegra who stepped
9 forward.

10 Bob was similarly there for a young man called
11 Conrad Martinez. Conrad was just somebody that Bob acted as
12 a mentor for in business. But while he was staying with Bob,
13 he suffered a kidney attack. They were not relatives, nor
14 were they best friends. However, Bob stayed in the hospital
15 with him all night. And when Mr. Martinez let Bob know that
16 he didn't know how he was going to pay for the hospital stay
17 because he had no health insurance, Bob told him, don't worry
18 about it, I got it. I'm going to take care of -- I'm going
19 to take care of the bill.

20 When an elderly woman just fell on the street near
21 Bob's house, he was the one -- there were people around. Bob
22 was the one that rushed to her and helped her and stayed with
23 her, so much so that the family made a donation in his name.

24 There was a friend, Gia Chorkey, who evidently has
25 gone through some difficult times in her life, and she wrote

1 that, "Bob was the only one outside of her immediate family
2 that she ever could rely on to be there for her." And when
3 she went through sort of a bitter, messy divorce, Bob was so
4 concerned about her sons and whether or not they would have a
5 good Easter that he got a giant actor, I presume, to play an
6 Easter Bunny and had gifts and candy and all of that at a
7 time when she was concerned, and I'm sure the boys were, were
8 actually suffering.

9 A letter that I also just handed up to your Honor
10 was from a very esteemed former judge and former Assistant
11 United States Attorney, who is actually in court today. Paul
12 Lilos (phonetic). He wrote, in the last paragraph in the
13 first page, "Needless to say, during my prosecutorial and
14 judicial career, I have encountered many individuals who have
15 either been squarely affected by our criminal justice system
16 or by our administrative system as it adjudicates the impact
17 of significant physical and mental impairments upon lives.
18 If there is one message I could most respectfully convey to
19 you based on my now 35 years professional experience, it is
20 that you very closely and favorably consider imposition of a
21 sentence that does not include incarceration of Bob in a
22 penal institution. And I think that he, Mr. Lilos, shares
23 the -- because he has been Bob's friend for 35 years, he has
24 done what Mr. -- you know, Steinback has referred to. He has
25 understood the -- not just the circumstances of the offense

1 but really understood and come to understand in a deep way
2 the actual reality of the charitable contributions, the
3 kindness of this remarkable, remarkable individual, your
4 Honor.

5 And I want to talk to you just briefly about
6 Mr. Allegra's health considerations. He is 63 years old,
7 which is not inordinately old. I mean, I suppose it's on the
8 older side, but, more importantly, he has a series of
9 extraordinarily serious health conditions. Your Honor is in
10 possession of a letter from his oncologist. Just by virtue
11 of the fact that one has an oncologist is not a great sign.
12 But Bob has been -- he had found hematuria, which is a fancy
13 word for blood in his urine, which is obviously of some
14 concern. He went and consulted this oncologist, and the
15 oncologist took obviously very seriously because, you know,
16 they do this history. And so the first thing that the
17 oncologist learns is that, since this is a risk for bladder
18 cancer -- well, Bob's father died of bladder cancer when he
19 was just 69, so six years from where Bob is now, his father
20 was dead of bladder cancer. And then more disturbing yet,
21 the oncologist found that Bob has lesions -- detects, you
22 know, MRI or CT scan, and shows that Bob has lesions in his
23 spine and in his lungs. And, even worse, Bob has some -- had
24 some lab work done that shows an abnormal protein in his
25 blood. And that abnormal protein is also a marker for

1 bladder cancer. It's also, as he wrote in his -- as he told
2 Bob in a different meeting, these markers are also concern
3 for non-Hodgkin's lymphoma, which I know from past experience
4 with other clients to be serious and, more often than not,
5 always fatal from that disease.

6 And I know that -- well, I've had many experiences
7 talking about the health of a particular defendant and the
8 answer of the US Attorney's office, or of certain courts
9 would be, well, you know, it's okay because you could give
10 the person an incarceratory sentence, the BOP is going to
11 take care of it. But it's -- actually, it's not
12 universally -- it's not universally assumed that that's the
13 case anymore. And that's particularly true with cuts and
14 reductions in the current administration.

15 But there was a recent opinion, that I don't know
16 if your Honor was aware of it, was *United States vs.*
17 *Rothbard*, R-o-t-h-b-a-r-d, 14 CR 89. And, in that case, it
18 was raised that some individual who needed costly medication
19 shouldn't go to prison because of it. And the Seventh
20 Circuit ultimately decided he probably would be all right and
21 he could go to the Bureau of Prisons. And Judge Posner wrote
22 just an absolutely scathing dissenting opinion about how
23 dismissive that the court had been in discounting the very
24 serious health conditions of this individual. And Posner
25 cited a 2016 report from the Department of Justice Inspector

1 General about severe problems that the Bureau of Prisons has
2 had in recruiting and maintaining qualified doctors to
3 minister to prisoners. And of particular note there was that
4 what suffers the most is preventative care. So obviously if
5 someone comes and they're an extremist and they're bleeding,
6 the BOP will probably deal with it. But where they fail the
7 most, and I think personally I believe they fail in a lot of
8 places from what I've seen, but where I think they fail the
9 most, is in preventative care. And for Mr. Allegra, given
10 all of these markers for bladder cancer, between the proteins
11 and the lesions --

12 THE COURT: You're not saying he has cancer. They
13 have not diagnosed him as having cancer.

14 MS. GURLAND: They have not diagnosed him as having
15 cancer. What they are saying, though, is that --

16 THE COURT: He is at risk.

17 MS. GURLAND: That he is at severe risk and that,
18 in order for them to be -- in order for what his doctors
19 would like to do to treat him appropriately, they would like
20 to have -- give him scans and blood work every -- every three
21 months. And they wrote that, the oncologist wrote that in a
22 letter. And what I'm just respectfully suggesting, based on
23 the studies that Judge Posner cited is that, while one could
24 say, well, it would probably be fine if he were incarcerated,
25 I think that there is ample evidence that it will be anything

1 but fine if he were to be incarcerated; and that there is a
2 substantial chance that to give him any sentence of
3 incarceration, much less a substantial one, could easily
4 result in his having bladder cancer because I think it's
5 close to developed, having it, and having it -- not having
6 the right tests to be administered and his dying of it. And
7 I think that that's not at all farfetched.

8 In addition, the sentencing guidelines in 2009, the
9 sentencing commission was re-analyzing after *Booker* whether
10 or not they should still put stock in that provision which
11 used to be 5H1.1, which is the provision that spoke of the
12 appropriateness of substantial sentencing reductions based on
13 just sort of age. Not as much infirmity, but fundamentally
14 just age. And the commission did an entire study, and it
15 did -- it revised the guidance, saying that age should
16 actually be a very relevant consideration. And it did that
17 after reviewing federal sentencing data, trial and appellate
18 court case law, scholarly literature, public economy and
19 testimony. And they've -- after reviewing those things, the
20 court found that age was -- that even just age was an
21 enormously important factor. And in two Seventh Circuit
22 cases that I found, one, *United States v. Carter*, 538 F3d
23 784. There, the 70 -- a 61-year-old defendant, who had no
24 specified health considerations, was sentenced to 63 months
25 below the advisory guideline range based on the possibility

1 of their getting sick. And in *United States v Holt*, similar,
2 62-month departure of the guidelines based on the age the
3 defendant would be when they got out. And that was 486 F3d
4 997. So I think that these -- I think that these factors are
5 considerable.

6 And there are other problems that Mr. Allegra has
7 health-wise that have to do with his age. He has severe
8 sleep apnea, you know, back issues. But I don't want to take
9 up the court's time with those, when, what I want to try to
10 impress upon the court is this emergent situation with the
11 possibility of bladder cancer and just how absolutely
12 terrifying it is for Mr. Allegra and for his son and for his
13 wife, when, if there is any possibility if he were to be
14 incarcerated and not get the care that he is getting right
15 now and not have people who are in charge of monitoring this
16 on a daily basis.

17 Your Honor, I wanted to just quickly, something
18 that Mr. Steinback said, and then I'm very close to
19 concluding. I know you have been very patient with us. But
20 something that Mr. Steinback talked about is that there had
21 been sort of a substantial period of time and a blameless --
22 a blameless career for Mr. Allegra. And one thing I just
23 wanted to highlight is that, you know, to have a blameless
24 career as someone in a normal business, or who is a lawyer
25 and, I don't know, any number of careers, it doesn't seem

1 like such a big deal to say that because one doesn't have the
2 opportunity to do anything wrong very frequently, such that
3 one isn't put in a position of having to say no to doing
4 something wrong very frequently.

5 But I wanted to bring your attention to a letter
6 written by Thomas Shover. And he was actually -- Thomas
7 Shover was there with Mr. Allegra in March when he was on the
8 tarmac and the arrest happened. He was actually
9 physically -- well, he wasn't present with Mr. Allegra and
10 the FBI agents, but he was back in the plane and waiting. So
11 he is very familiar with this case. He was there. And he
12 wrote, and I think have some insight into what people are --
13 who are in private aviation, what they are confronted with.
14 And he wrote that other than this incident he has never, you
15 know, 30 plus years of knowing Mr. Allegra known him to be
16 involved in anything illegal, or even unethical. And
17 Mr. Shover went on to write, "This may not be a big deal in
18 other professions; however, as mentioned, when one has a
19 career as a pilot, there is constant temptation to do illegal
20 and unquestionable things."

21 And so I think it's important to note that in --
22 because of the business that Mr. Allegra was in, he had, over
23 the span of his career, numerous times that people wanted him
24 to do something ranging all the way from slightly unethical,
25 such as flying, you know, to take the fee and fly when the

1 conditions weren't just right to fly, ranging to, asking him
2 to do things that were outright illegal. And in saying that,
3 you know, this circumstance with Mr. Aurelio, obviously all
4 of it wrong. Others have talked about it. I'm not going
5 over that territory. But there have been -- in a 45-year
6 career in private aviation, there have been so many
7 circumstances in which Mr. Allegra could have made a
8 different decision and did not. And I think that that's
9 just -- it's enormously significant in terms of evaluating
10 who it is that he is.

11 And I want to also -- teeing off something
12 Mr. Steinback had said, he was explaining that Mr. Allegra's
13 business had suffered. Well, one of the reasons that
14 Mr. Allegra's business has suffered is because of Mr.
15 Allegra. Because Mr. Allegra understands that what he is
16 doing is he is -- you're entrusting -- when you get on an
17 airplane, more than in almost any other circumstance, other
18 than I guess someone is driving you in a car, you're
19 entrusting your life to them. And you have to believe that
20 they are compos mentis. You have to believe that they are
21 focused. You have to believe that they're not distracted by
22 something else. And what Mr. Allegra decided to do was that,
23 when he was dealing with these potential clients, and, you
24 know, people that he was dealing with in business, he came
25 out with it. He said, listen, I think that you should

1 understand before you decide to fly with me, I think that you
2 should understand before you decide to buy an airplane from
3 me, I think that you should understand before you trust me
4 with your life that I have a significant criminal case, I'm
5 under federal indictment, I'm going to be sentenced. And he
6 was the one that said that because, in those instances, he
7 did put the people and how they felt and how they -- what
8 experience they would have had above the profit motive. And
9 so a lot of the reason why his business has crumbled is that
10 he wasn't about to let somebody get in an airplane with him
11 without giving them full and fair disclosure of exactly
12 what's been going on in this case. And, your Honor, I think
13 that that's very much to his credit. And whatever else that
14 anybody is going to say and will say about his greed and
15 whatever else, in these circumstances, in the last several
16 years, he has been motivated by anything but greed. He has
17 been motivated by being as forthright and sincere and as
18 honest and fair to these colleagues and these clients as
19 anybody, and I think more so than 99 percent of the people
20 would be in these circumstances.

21 And so, your Honor, I just want to close with
22 something that I'm trying -- I'm trying not to be emotional
23 about, but I am slightly emotional about, but I won't be,
24 which is that: Mr. Allegra has suffered tremendously for the
25 conduct in this case already. But more than that, his wife

1 has suffered and his son has suffered. And this I actually
2 know because people in this community that I live in with the
3 Allegras have some of them ignorantly come up to me and say:
4 Hey, do you know that Bob Allegra is a member of the Mexican
5 drug cartel? To me, now, they have no idea about the
6 relationship. But people gossip and people utter the most
7 kind of cruel and awful things possible. And I have seen,
8 seen, circumstances in which his son has been shunned from
9 playing with people in the neighborhood, that he has been
10 running along after them, and they say, oh, we're going here,
11 but they're not really going there, they're going somewhere
12 else, or they lock them out of -- the boy, his boy, out of
13 the house. And the rest of them, you know, run along
14 laughing and playing. And it's all -- it's -- much of it
15 because there is nothing -- the son is an otherwise just
16 absolutely delightful boy, so it's not on him. It's coming
17 from things that the parents are saying to the kids. And it
18 is as -- it is as cruel and as awful as it could be. But for
19 Mr. Allegra, it is the most horrible part of this case
20 because the truth is that nobody who knows him at all would
21 ever think that he would do anything in his life other than
22 love and protect that boy and his wife, Lisa. And his
23 devastation, not just sadness, your Honor, but devastation at
24 seeing what this case has done to his wife and his boy in
25 this community is beyond words that I could speak.

1 So I would ask your Honor, I would remind your
2 Honor that we are talking about a guideline recommendation.
3 I don't think that we start off at 70. I think we start off
4 at a place of 48 because, even after considering all of the
5 circumstances and I think making a very reasonable -- a very
6 reasoned probation recommendation, that's where probation
7 starts. Probation starts at 48 months.

8 THE COURT: Probation doesn't make the decision, I
9 do.

10 MS. GURLAND: Of course, your Honor. But I think
11 probation did a wonderful job in this case.

12 THE COURT: Okay.

13 MS. GURLAND: And so we are asking for a
14 substantial departure, for all of those reasons.

15 THE COURT: Thank you.

16 MR. OTLEWSKI: Okay. Your Honor, let's be clear
17 about what the defendant did. He was associating at the very
18 highest levels of drug trafficking. Defense counsel earlier
19 took great pains to try to compare this case to *Ga77*. It's
20 just not *Ga77*. That was a person who was in their early 20s,
21 involved in drug dealing, ecstasy pills. This is a defendant
22 who met a member of a Mexican cartel down in Guadalajara, a
23 member of the Mexican army who was moonlighting as a drug
24 trafficker and discussed with those individuals, sat down at
25 a table, in a building, one of their residences, discussed

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FILED

NOV 12 2020

THOMAS G. BRUTON
CLERK, U.S. DISTRICT COURT

UNITED STATES
OF AMERICA

v.

ROBERT ALLEGRA

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No. 18 CV 05061

Judge Elaine E. Bucklo

VERIFIED MOTION PURSUANT TO RULE 60(b)(4)

COMES NOW defendant, Robert Allegra ("Allegra") Pro Se, and moves the Court to grant his VERIFIED MOTION PURSUANT TO RULE 60(b)(4) in support of this motion, Robert Allegra states the following:

STATEMENT OF THE CASE

Federal Rule of Civil Procedure 60(b)(4) allows the court to relieve the party from a final judgment that is void, the final judgements rendered in cases 18 CV 05061 and related case 15 CR 243 are VOID as a matter of law.

This Courts Subject Matter Jurisdiction was induced by fraud, therefore Subject Matter Jurisdiction was lacking before this court entered any and all orders related to cases 18 cv 05061 and related case 15 CR 243. A litigant generally may raise a court's lack of subject-matter jurisdiction at any time in the same civil action, even initially at the highest appellate instance. *Mansfield, C. & L. M. R. Co. v. Swan*, 111 U. S. 379, 382 (1884) (challenge to a federal court's subject-matter jurisdiction may be made at any stage of the proceedings, and the court should raise the question *sua sponte*).

[A] judgment is void for purposes of Rule 60(b)(4) "*if the court that rendered it lacked jurisdiction of the subject matter, or of the parties, or if it acted in a manner inconsistent with due process of law.*" *In re Edwards*, 962 F.2d 641, 644 (7th Cir.1992).

Although ordinarily a district judge has broad discretion in the application of Rule 60(b), *Connecticut National Mortgage Co. v. Brandstatter*, 897 F.2d 883, 884 (7th Cir.1990), this is not true with respect to motions brought under Rule 60(b)(4). Because void judgments are legal nullities, district courts have little leeway. *Bally Export Corp. v. Balicar, Ltd.*, 804 F.2d 398, 400 (7th Cir.1986). If the underlying judgment is void, it is a *per se* abuse of discretion for a district court to deny a movant's motion to vacate the judgment under Rule 60(b)(4). *Id.*

Rule 60(b) has an unquestionably valid role to play in habeas cases, a function as legitimate in habeas cases as in run-of-the-mine civil cases. The Rule also preserves parties' opportunity to obtain vacatur of a judgment that is void for lack of subject-matter jurisdiction—a consideration just as valid in habeas cases as in any other, since absence of jurisdiction altogether deprives a federal court of the power to adjudicate the rights of the parties. *Steel Co. v. Citizens for Better Environment*, 523 U. S. 83, 94, 101 (1998) The majority explains that a proper Federal Rule of Civil Procedure 60(b) motion "*attacks, not the substance of the federal court's resolution of a claim on the merits, but some defect in the integrity of the federal habeas proceedings.*" See *Gonzalez v. Crosby*, 545 US 524 (Supreme Court 2005)

This is a proper Rule 60(b) Motion, this is NOT a successive § 2255 petition, although the merits are ripe for attack, this motion does NOT attack the merits of the case.

The Rule also preserves parties' opportunity to obtain vacatur of a judgment that is void for lack of subject-matter jurisdiction—a consideration just as valid in habeas cases as in any other, since absence of jurisdiction altogether deprives a federal court of the power to adjudicate the rights of the parties. *Steel Co. v. Citizens for Better Environment*, 523 U. S. 83, 94, 101 (1998). *Gonzalez v. Crosby*, 545 US 524 (Supreme Court 2005).

An inspection of the underlying proceeding will show an absence of any claim in which the courts Subject matter jurisdiction was previously challenged, this motion is properly before the court.

SUBJECT MATTER JURISDICTION

Subject Matter Jurisdiction is the authority of a court to hear cases of a particular type or cases relating to a specific subject matter. ... Subject matter jurisdiction cannot be waived and may be challenged by a party or raised *sua sponte* by the court at any point in the proceedings. *Jackson v. Consolidated Rail Corp.*, 717 F.2d 1045, 1055 (7th Cir.1983), *cert. denied*, 465 U.S. 1007, 104 S. Ct. 1000, 79 L.Ed.2d 233 (1984).

"Courts are constituted by authority and they cannot go beyond the power delegated to them. If they act beyond that authority, and certainly *in* contravention of it, their judgments and orders are regarded as nullities. They are not voidable, but simply void." *Vallely v. Northern Fire & Marine Ins. Co.*, 254 US 348 - Supreme Court 1920. "if district court lacked jurisdiction it was a *per se* abuse of discretion to deny the Rule 60 (b)(4) motion" see *Bally Export Corp. v. Balicar, Ltd.*, 804 F. 2d 398 - Court of Appeals, (7th Cir. 1986)

JURISDICTION PROCURED THROUGH FRAUD

Jurisdiction that is procured through fraud, is not Jurisdiction, this court's jurisdiction was procured through 28 USC § 2255 which was delegated from case no. 15 CR 243 in which the Court's jurisdiction was procured by 28 USC § 846 with the statutory language of § 841 limiting the court's jurisdiction to the subject matter of 28 USC § 846 and § 841 "*Jurisdiction of the lower federal courts is... limited to those subjects encompassed within a statutory grant of jurisdiction*" see *Insurance Corp. of Ireland v. Compagnie des Bauxites de Guinee*, 456 US 694 (Supreme Court 1982)

Robert Allegra was indicted on one count of Attempt to Possess with Intent to Distribute a controlled substance in violation of 21 USC § 846 in which the government knowingly and willfully presented fabricated evidence to the Grand Jury to obtain a fraudulent and lawless indictment.

"It was established law by 1985 (indeed long before), when the fabrication is alleged to have occurred, that a government lawyer's fabricating evidence against a criminal defendant was a violation of due process" See. *Fields v. Wharrie*, 740 F. 3d 1107 - Court of Appeals, (7th Cir. 2014)

STATEMENT OF MATERIAL FACTS

1. On or about March 25, 2015 Robert Allegra was arrested at the Van Nuys Airport in Van Nuys California by agents of the FBI field office in Chicago Il. (see post arrest doc.)
2. On or about April 29, 2015 the government filed the indictment in case no. 18 CR 243 [dkt.no.1].