

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

UNITED STATES OF AMERICA            )  
  )  
  )     Case No. 07 CR 227  
  )     Judge Dow  
  )  
  )  
JOHN TOMKINS                            )

**GOVERNMENT’S SENTENCING POSITION PAPER**

The UNITED STATES OF AMERICA respectfully submits this sentencing position paper with respect to defendant John Tomkins. The government has previously submitted a government’s version, which detailed the facts and circumstances of the offense, as well as the defendant’s role in the offense. Contemporaneously with this filing, the government is submitting its objections to the Guideline calculations contained in the Pre-Sentence Report. This position paper is submitted to supplement the government’s anticipated argument at sentencing.

I.     Each of the Factors Required to be Considered by the Court under 18 U.S.C. § 3553(a) Also Requires that Defendant Tomkins be Sentenced to a Substantial Term of Imprisonment Beyond the 30-Year Mandatory Statutory Sentence.

In imposing a sentence, the Court is required to consider the factors set forth in § 3553(a), including, among other things: (1) the nature and circumstances of the offense; (2) the history and characteristics of the defendant; (3) the need for the sentence imposed (a) to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense, and (b) to protect the public from further crimes of the defendant; and (4) the sentencing range set forth in the advisory guidelines. Each of these factors compels a sentence within the advisory guidelines range of 511 to 546 month’s imprisonment.

A. The Nature and Circumstances of the Offense

The nature and circumstances of this offense are horrific. Over nearly two years, defendant John Tomkins engaged in a campaign of terror, mailing no less than 17 letters to the owners and/or employees of various investment companies located throughout the United States, threatening to kill those employees, their children, their co-workers, and their friends if the victims did not do as defendant demanded.

Defendant sent these threats to his victims' homes and to their businesses. Sometimes, defendant used the victims' home addresses, or the home address of one of the victims' colleagues, as the return address on the envelope containing the threatening letter. In so doing, defendant was sending a clear, personal, and chilling message to his victims. In effect, defendant was telling his victims: "I know who you are. I know where you live. I know where your family, friends, and co-workers live. And I can reach out and kill you or any of them, at any time."

And when he didn't get what he wanted – what he had demanded from his victims – the defendant became more hostile and the threats grew worse. After nearly two years of threatening his victims with words, the defendant sent his victims pipe bombs through the mail - the bombs were very real and very terrifying.

It is difficult to fully articulate or calculate the harm that the defendant inflicted upon his victims through his actions. Indeed, the victims' lives were forever altered as a result of defendant's actions. As some of the victims explained at trial, after receiving defendant's threats, they lived in fear and took steps to ensure their safety and the safety of their families, friends, and colleagues. To this day, and likely for the rest of their lives, some of the victims cannot describe what happened to them without becoming overwhelmed with emotions.

Fortunately, no one was killed by defendant's actions. However, this was fortuitous, to say the least. The bombs the defendant built were functional, but for the attachment of one wire, which was not secured within the box in which it was mailed. Had that one wire been attached, or come into contact with the positive end of the batteries through jostling, with the box closed, the bomb would have instantly exploded, killing and harming anyone in the vicinity of the bomb. Had that occurred while the bomb was traveling through the United States Postal system – at a post office, at a handling facility, on a truck, or on an airplane (including the passenger planes by which the USPS sends mail) – defendant's actions would have resulted in untold deaths and damage.

The nature and circumstances of this case demand a significant sentence. A sentence within the advisory guidelines range of 511 to 548 months' imprisonment is appropriate.

B. History and Characteristics of the Defendant

In many respects, it is difficult to comprehend how defendant Tomkins arrived at this point in his life. At the time he committed the charged offenses, he was a 40-year old man, seemingly living a quiet, comfortable life in DuBuque, Iowa, where he lived with his wife and daughter and held a steady job as a machinist and a union representative at a long-established company.

But defendant Tomkins also lived a secret life that he hid from his friends and family. During the course of the trial, the Court had an inside look into the secret life of John Tomkins. It was and is a chilling and terrifying life.

As the evidence established at trial, it was a life in which the defendant threatened to kill his victims, their co-workers, their neighbors, and their families if his victims did not do what the defendant demanded. It was a life in which the defendant warned his victims of the consequences of failing to comply with his demands – “it is impossible to protect them all” – and – “You will help,

after all it is so easy to kill somebody it is almost scary.”

It was a life in which the defendant taunted his victims in the threatening letters, describing the various ways he could kill them and their families:

Just think it could be as simple as mailing a package just like The Unibomber used to do, or maybe like Salvo did in the D.C. sniper case just a small hole in the trunk of the car and BANG!!

It was a life in which the defendant warned his victims:

Possibly the worst thing that can happen to someone is to have a child or grandchild go missing. Kids are snatched all the time and the poor parents are tormented for years not knowing what happened to their angel do you really want to be responsible for that.

It was a life in which the defendant, when those threats did not work, escalated his threats by sending two pipe bombs through the mail. And to make sure that his victims understood his message, and to ensure that his victims understood his power over them, defendant included a letter with those pipe bombs, informing his victims that they were still alive simply because he had decided not to attach one last wire on the bombs:

**BANG!! YOU'RE DEAD**

Stop and think about that for a second. Think about the effect it would have on your family. The only reason you are still alive is because I did not attach one wire. If you do not believe me then go ahead and touch that red wire to the top of the battery pack. There is enough gunpowder and steel shot in that tube to kill anyone in a ten foot radius when it goes off.

Now imagine how you will feel when I mail that same package to one of your family members or neighbors or co-workers and yes I will be sure to connect all the little wires. Now if you decide you want to keep the people around you safe, you will do as I say.

Fortunately, defendant never had the chance to escalate his actions further, as he was arrested on April 25, 2007. At the time of his arrest, however, law enforcement officers found an arsenal of bomb making materials in his storage lockers, including all of the materials he needed to continue

building pipe bombs: PVC pipes and end caps; jars of explosive powder; multiple batteries; multiple ignitors; multiple lengths of wires to complete the circuitry; and mailing boxes to mount and conceal the devices. And, in fact, defendant had already built two additional pipe bombs, one of which was already sealed and ready for mailing.

It was a life that was all consuming of his other, seemingly normal life. It was a life in which the defendant spent countless hours researching each of his victims, including finding their home addresses, the names and home addresses of their friends, relatives, and co-workers, all with the purpose of sending a chilling message – “I know who you are. I know where you live. I know where your family, friends, and co-workers live. And I can reach out and kill you or any of them, at any time.”

It was a life in which the defendant drove hundreds of miles from his home in Iowa to one of his victim’s homes so that he could take a picture and send his threat. It was a life in which defendant drove hundreds of miles from his home to buy bomb making materials to avoid detection. It was a life in which defendant took his threatening letters with him on a family vacation – to Disney World no less – so he could mail them far from his home in DuBuque.

Defendant took these terrifying and secretive actions because he was greedy – because he did not like the financial and life situation in which he found himself. To remedy those perceived problems (perceived injustices perhaps?), defendant Tomkins decided to terrorize people to get what he wanted. And, in doing so, defendant was indifferent to whether he killed people in the process.

For that other life, and for the horrific choices he repeatedly made over the course of two years, defendant Tomkins should be sentenced within the advisory guidelines range of 511-548 months imprisonment.

- C. The need for the sentence imposed (a) to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense, and (b) to protect the public from further crimes of the defendant.

Only a substantial sentence of incarceration, including one that will likely be the rest of defendant Tomkins's life, will be sufficient to adequately protect the victims and the general public from defendant Tomkins. In considering an appropriate sentence, it is significant to note that the defendant's skills in building bombs will not go away with time. Indeed, for as long as he is alive, defendant Tomkins will have the skills necessary to build and send pipe bombs through the mail. It is also significant to note that defendant Tomkins's issues with his life circumstances will likely not dissipate with the passage of time. To the contrary, for as long as he is alive, defendant Tomkins is likely to continue resenting his life circumstances, which are now much bleaker as a result of this conviction and the significant prison sentence that is to be imposed. Defendant Tomkins has already proven – repeatedly over the course of years – that when he is unhappy with his life, he lashes out at others, with threats and bombs, without regard to the law or the value of human life. Accordingly, defendant Tomkins has proven that he needs to be incarcerated for a substantial prison sentence to protect his victims and society from recurring harm. A sentence between 511 and 546 months imprisonment is appropriate.

D. Guideline Range

As noted in the government's objections to the PSR, filed contemporaneously herewith, the government calculates the advisory guideline range to be 511 to 548 months' imprisonment. For the reasons set forth above, the reasons set forth in the government's version, and for the reasons established by the evidence at trial, a sentence within that range would sufficiently incapacitate the defendant and protect society.

Respectfully submitted

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