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**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA**  
**Criminal Division – Felony Branch**

SUPERIOR COURT OF  
DISTRICT OF COLUMBIA  
CRIMINAL DIVISION

THE UNITED STATES OF AMERICA )  
 )  
 v. )  
 )  
 SAMUEL NELSON, )  
 )  
 Defendant. )  
 \_\_\_\_\_ )

Criminal No. 2012 CFL17270 -4 P 4:35  
The Honorable Robert E. Morin  
Sentencing Date: April 5, 2013

**GOVERNMENT’S MEMORANDUM IN AID OF SENTENCING**

The United States of America, by and through its attorney, the United States Attorney for the District of Columbia, hereby submits this memorandum in aid of sentencing. For the reasons stated below and any other reasons that may be cited at the sentencing hearing, the United States respectfully requests that the Court impose a sentence of 180 months, or 15 years, of incarceration.

**FACTUAL AND PROCEDURAL BACKGROUND**

Shortly before 8 p.m. on Tuesday, October 2, 2012, defendant Samuel Nelson saw the decedent, Darnell Howard, near 30<sup>th</sup> Street SE and Naylor Road SE in Washington, DC. The night before, Mr. Howard and an individual known as “Snake” had robbed the defendant of approximately \$50-60, and the defendant was still upset about that. The defendant approached Mr. Howard, and a verbal altercation ensued. The verbal altercation turned physical, and during the fight, the defendant pulled out a butcher knife and proceeded to stab Mr. Howard, who was unarmed, several times about the body. When Mr. Howard fell to the ground, the defendant continued to kick him in the head and stab him. Mr. Howard was subsequently transported to Washington Hospital Center’s MedStar Unit, where he succumbed to his injuries and was pronounced dead at 8:40 p.m. After stabbing Mr. Howard, the defendant then walked away and was stopped minutes later by police

officers near the intersection of 28<sup>th</sup> Street SE and Naylor Road SE. He agreed to accompany the police to the Homicide Branch for a voluntary interview. After being read his *Miranda* rights, the defendant waived them and confessed to stabbing Mr. Howard. He was subsequently arrested. On January 4, 2013, the defendant pled guilty to one count of Voluntary Manslaughter While Armed.

### **THE DEFENDANT'S CRIMINAL HISTORY**

The defendant has two prior adult convictions, both for PCP possession. He was convicted of Attempted Possession of PCP in 2007 and Possession of PCP in 2010. In both cases, his probation was subsequently revoked to incarceration. He was also arrested for Destruction of Property in 2010 and for Simple Assault in 2011; both of those cases were no-papered.

### **LEGAL PRINCIPLES**

Sentences in the District of Columbia must serve three objectives:

- (1) Reflect the seriousness of the offense and the criminal history of the offender;
- (2) Provide for just punishment and afford adequate deterrence to potential criminal conduct of the offender and others; and
- (3) Provide the offender with needed educational or vocational training, medical care, and other correctional treatment.

D.C. Code § 24-403.01(a); accord D.C.S.G. § 1.1; compare 18 U.S.C. § 3553(a)(2) (federal sentencing courts shall consider, among other factors, “the need for the sentence imposed – to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense; to afford adequate deterrence to criminal conduct; to protect the public from further crimes of the defendant; and to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner”).

In fashioning a sentence to fulfill these objectives, the Court has discretion to consider and

weigh an array of factors about the defendant, including, but not limited to, character, remorse, acceptance of responsibility, offense-related conduct (including acquitted conduct), aggravating and mitigating factors, criminal history (both juvenile and adult), and prior performance on probation and parole, as long as those considerations are based on reliable evidence. See Wallace v. United States, 936 A.2d 757, 780 (D.C. 2007) (“A judge has wide latitude when conducting a sentencing hearing, and may rely on evidence not admissible during trial”; of course, “due process dictates that a trial judge may not rely on mistaken information or baseless assumptions and must instead rely on reliable evidence”) (internal quotation marks and citations omitted); Belton v. United States, 581 A.2d 1205, 1213-14 (D.C. 1990) (“a judge may consider a wide range of information in aid of sentencing”; collecting cases and examples); D.C.S.G. §§ 3.1, 3.2 (in determining a sentence, “the court may take into consideration any factor other than” “race, gender, marital status, ethnic origin, religious affiliation, and sexual orientation”); cf. Pope v. United States, 739 A.2d 819, 827 (D.C. 1999) (in determining release conditions, “a defendant’s past conduct is important evidence – perhaps the most important – in predicting his probable future conduct”) (quoting Cruz-Foster v. United States, 597 A.2d 927, 930 (D.C. 1991)).

### **GUIDELINES SENTENCING RANGE**

The government concurs with the Pre-Sentence Report (“PSR”) calculation that the defendant’s applicable range under the Voluntary Sentencing Guidelines is 90-180 months (7 ½ to 15 years) of incarceration.

### **THE GOVERNMENT’S SENTENCING REQUEST**

The government requests that the Court sentence the defendant to a term of 180 months (15 years) of imprisonment. This is the maximum sentence for Voluntary Manslaughter While Armed,

and the government submits that such a sentence is fully justified in this case.

The defendant's motive for killing Darnell Howard was revenge, nothing more and nothing less. The night before the murder, Mr. Howard and someone called "Snake" had robbed the defendant of approximately \$50-60. The defendant, understandably, was angry about that. He felt harassed and wanted to do something to show Mr. Howard that he could stand up for himself. On the night of the murder, the defendant—who was carrying a butcher knife—saw Mr. Howard standing by himself across the street and decided to make his move. He walked up to Mr. Howard, asked him, "What's up now?" or words to that effect, and started to fight with him. During the fight, the defendant pulled out his butcher knife and repeatedly stabbed Mr. Howard, who was unarmed. When Mr. Howard fell to the ground and, realizing what was happening, started to beg for his life, the defendant continued to stab him and also kicked him twice in the head. He then discarded the knife, walked a short distance away, and was stopped by the police one block away. When he was interviewed by the police that night, he admitted to the stabbing. The defendant was then told that he was being arrested for murder. When told that, he evinced (credible) surprise and began to cry.

Certain aspects of this case are not in dispute: The defendant stabbed Mr. Howard because he was angry that Mr. Howard had robbed him the night before; the defendant was high on PCP when he did this; and the defendant regrets his actions. All of that should be taken into account as the court considers what sentence to impose in this case. But so should other facts: the defendant, not Mr. Howard, provoked the conflict that night. The defendant, not Mr. Howard, was armed with a knife. And the defendant stabbed Mr. Howard not out of self-defense, but simply because he was angry. He wanted revenge, and he got it.

Certainly, the defendant deserves credit for accepting responsibility in this case. The

government submits, however, that such credit is already reflected in the generous guilty plea that was extended to him. Rather than facing a charge of first-degree premeditated murder while armed—which would certainly have been justified, given the clear deliberation the defendant engaged in by arming himself and crossing the street to confront Mr. Howard when Mr. Howard was alone—he is facing voluntary manslaughter while armed. He is facing a charge that already *accounts* for the fact that Mr. Howard robbed him, that already *accounts* for the fact that he was high on PCP at the time. He should not receive the additional benefit of a sentence that falls below the maximum guidelines-compliant sentence in this case.

Moreover, notwithstanding the defendant's remorse for his actions, the court cannot have confidence that he will change his behavior in the future. The PSR writer characterized the defendant as "an extremely high risk to the community and just as high a risk to recidivate" and called him "dangerous in the community." In each of his two prior adult cases, his probation was revoked to incarceration. Given the defendant's history of abusing the most dangerous drug on the street and his evident willingness to avenge crimes against him by arming himself and going out of his way to seek revenge on his attacker, the court can have little confidence that the defendant will restrain himself in the future. Perhaps he will be robbed again by someone who sees him high and as an easy mark. Perhaps, high on PCP, he will engage in the kind of violent and irrational behavior that PCP addicts engage in all too often. The court can have little confidence, in short, that this will be the defendant's last brush with the law. Incarcerating him for 15 years for going out of his way to take a man's life is hardly excessive.

In recommending its sentence, the government has also considered the wishes of the people affected most profoundly by this crime—the family of Darnell Howard. The court has before it,

attached to this filing, letters from his widow and his aunt, and a poem from his teenage daughter. It will also hear from at least one additional family member at sentencing. What the family members' letters make clear is that Mr. Howard's murder was not simply some meaningless street conflict. To the people who cared about him, it was much more than that. To them, Mr. Howard was a caring husband, loving nephew, and devoted son and father. He helped care for his sick, bedridden mother, and he loved his daughter deeply. Her poem shows the ache of Mr. Howard's loss. It is all too easy at sentencings like this—where the focus is often on the *defendant's* difficult life and how much the *defendant's* family wants him to come home—to forget that the real price in this case will not be paid by the defendant, or by his family, or even by the decedent. The real price will be paid by the people who loved Mr. Howard deeply and have to live with the fact of his loss every day.

#### CONCLUSION

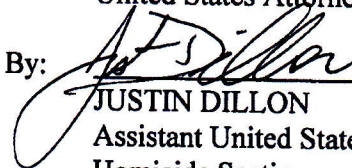
If the court imposes the 15-year sentence that the government is requesting, the defendant will be home by the time he is 42, if not earlier with good behavior. He will still have a long life to life with *his* family and with *his* daughter. But Mr. Howard's family will never get Mr. Howard back. The defendant ended Mr. Howard's life, and took him irrevocably away from his family, because he wanted revenge. Surely 15 years is not too high a price to pay for that decision. Had the defendant not killed Mr. Howard but instead taken Mr. Howard's car at gunpoint, he would serve a mandatory 15-year sentence. Surely imposing the same amount of time for killing Mr.

Howard—for arming himself and crossing the street to kill him—is justified in this case. For all of these reasons, the government respectfully recommends that the court sentence the defendant to 180 months, or 15 years, of incarceration.

Respectfully submitted,

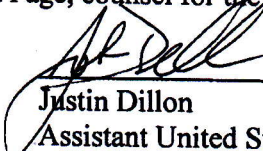
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**CERTIFICATE OF SERVICE**

I hereby certify that on this 3<sup>rd</sup> day of April, 2013, I caused a copy of the foregoing to be served by electronic mail and by hand upon Dana Page, counsel for the defendant.

  
Justin Dillon  
Assistant United States Attorney

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# Victim Impact Statements



## VICTIM IMPACT STATEMENT

*Please complete the following:*

Your Name: Anna Howard

Your Loved One's Name: DARNELL HOWARD

Relationship to the decedent: Aunt

Defendant's Name: SAMUEL NELSON

Case #: 2012 CF1017270

Sentencing Date: APRIL 5, 2013

To the Honorable ROBERT MORIN (Judge's Name)

*If you do not wish to make a statement regarding this offense, please indicate this here and send us this page.*

>

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Date*

{You can use this form as a guide or write your statement in letter form to the Judge. Please include the identifying information listed above. Consider the following}:

How has the loss of your loved one affected you and those close to you? {e.g. feelings of anger, rage, blaming self, family for murder, helplessness, vulnerability, fear, paranoia, hopelessness, frustrated, loss of trust and faith in the world}.

To The Honorable Robert Morin

**Re: People vs. Samuel Nelson Case #2012CF1017270**

Your Honor:

My name is Anna Howard and I am the aunt of the victim Darnell Howard.

I would like to thank you for giving me the opportunity to disclose the impact Darnell's death has had on my family and I. We are lost without him. As Darnell had a great impact in our lives, there is a part in our hearts that is now broken.

Darnell was brutally taking away from us and to know that he has suffered by the hands of a man who has no regard for human life and for the rules of society angers me. The death of Darnell has affected my family and I deeply.

The death of our beloved Darnell has affected my family and I immensely. I often sit and think about Darnell on a daily basis and find myself crying from time to time, as do other family members. I miss his laugh, his smile, and the warmth that he brought to not only my life but our family members' lives. My fondest memories of Darnell was fixing him dinner plates, especially on Sunday's, and at family gatherings. I find myself daily looking at his favorite couch where he would always sit and sometimes fall asleep. I am hurt, angry and frustrated with my nephew's death. Darnell was like the glue to the family. Whenever there was an event, he would call several family members and gather his neighborhood friends to join in on the fun. I will no longer be able to talk to him, attend family functions and gatherings or just have fun with him any longer.

Most of all, Darnell will be deeply missed by the two people he provided the most care for, whom he provided his time, his love, and contributions financially to, his teenage daughter and his ailing mom, who needs the attention. My dear nephew will no longer be able to attend to his ill mother, who is currently bed stricken and is unable to care for herself. He would visit and care for his mom on a regular basis making sure she was bathed, and properly cared for medically. He will no longer be there to help us with or to talk to about my dear sister, his mom.

Mostly, it is heartbreaking to see all the pain and the tears the effect of Darnell's death has had on his daughter, D'Aisa Howard. Just knowing that my ill sister will no longer receive the care, the visits from her son are forever gone and we all will no longer be able to hear the words "I love you" another day from my beloved nephew.

I feel that Mr. Nelson is a threat to society; therefore, he should be given the sentence appropriate for his actions, murder. Because of his actions, I will never be able to spend time with my nephew.

Sincerely,

Anna M. Howard

## VICTIM IMPACT STATEMENT

*Please complete the following:*

Your Name: Theresa Honesty-Howard

Your Loved One's Name: DARNELL HOWARD

Relationship to the decedent: Wife

Defendant's Name: SAMUEL NELSON

Case #: 2012 CF1017270

Sentencing Date: APRIL 5, 2013

To the Honorable ROBERT MORIN (Judge's Name)

*If you do not wish to make a statement regarding this offense, please indicate this here and send us this page.*

>

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Date*

{You can use this form as a guide or write your statement in letter form to the Judge. Please include the identifying information listed above. Consider the following}:

How has the loss of your loved one affected you and those close to you? {e.g. feelings of anger, rage, blaming self, family for murder, helplessness, vulnerability, fear, paranoia, hopelessness, frustrated, loss of trust and faith in the world}.

Case# 2012CF1017270

Judge

My name is Theresa Honesty-Howard and I'm writing you to inform you of how my husband's murder has impacted my life and the lives of countless relatives and friends. When Samuel Nelson took Darnell Howard's, he took the life of a father, a husband, a son, a brother, an uncle and a good spirited man. Darnell was my best friend. He was a loving and concerned father. He was a devoted son and grandson. His senseless murder will forever cause pain in all of our hearts.

Samuel Nelson should get the maximum sentence allowed. This is not a case of manslaughter, this is a case of MURDER ONE.

Samuel Nelson wasn't a stranger, this is a man, and I use that term loosely, who had been considered a friend by Darnell and Darnell's family. This was a deplorable act of betrayal. NO one has the right

to take another's life. Darnell's children, family and friends will not ever have another precious moment with him. Give us our justice in this blatant disregard for human life.

A POEM FROM DARNELL'S DAUGHTER  
D'AISA

A thousand times I needed you,  
A thousand times I've cried  
If love alone could have saved you,  
you never would have died.

A heart of gold stopped beating  
two twinkling eyes closed to rest

God broke my heart to prove  
he only takes the best

Never a day goes by that  
you're not in my heart, Daddy

You will never be forgotten so  
until the time comes for me to join you  
at your New Address I will always remember

GOD TOOK THE BEST!