

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION**

UNITED STATES OF AMERICA) **CR 413-220**
)
 v.)
)
 DANIEL JOHN WISE)

**GOVERNMENT'S MOTION FOR DOWNWARD DEPARTURE
PURSUANT TO U.S.S.G. § 5K1.1 AND 18 U.S.C. § 3553(e)**

Comes now the United States of America, by and through Edward J. Tarver, United States Attorney for the Southern District of Georgia, and respectfully moves, pursuant to U.S.S.G. § 5K1.1 and 18 U.S.C. § 3553(e), for a downward departure from the applicable sentencing guideline range for the defendant based upon his substantial assistance to the government in the investigation and prosecution of other persons.

BACKGROUND OF MOTION

1. On January 8, 2014, defendant pleaded guilty to the information which charged Conspiracy in violation of 18 U.S.C. § 371. The defendant faces a statutory penalty of up to five years imprisonment, a fine of up to \$250,000, and not more than three years of supervised release. His projected guideline range for imprisonment is 60 months, based on a total offense level of 38, and a criminal history category of I. (In the absence of the statutory maximum term of imprisonment, Wise's guideline range for imprisonment would be 235-293 months.)

2. The government represents, and will more fully develop at sentencing, that the assistance of the defendant in the investigation and prosecution of others constitutes "substantial assistance" as contemplated by U.S.S.G. § 5K1.1. Therefore, by the filing of this downward departure motion pursuant to U.S.S.G. § 5K1.1 and 18 U.S.C. § 3553(e), the Court is authorized to impose a sentence below the advisory guideline sentence range.

3. On December 20, 2013, the defendant made a truthful proffer to DEA and GBI investigators detailing his knowledge of persons engaged in unlawful activities at East Health Center. The defendant signed his plea agreement with the government on December 26, 2013.

4. Following the entry of his plea, Wise met with members of the USAO trial team in Savannah on January 12, 2014, to prepare for his expected trial testimony. Thereafter, he testified at the jury trial of Najam Azmat, CR 413-28. Azmat was found guilty of all counts.

5. The government deems that the assistance provided by Wise was substantial. The government characterizes the value of defendant's cooperation as SIGNIFICANT.¹ Further bases for the government's characterization of the value of defendant's cooperation may be proffered at sentencing.

CITATION OF AUTHORITY

U.S.S.G. § 5K1.1 provides as follows:

Upon motion of the government stating that the defendant has provided substantial assistance in the investigation or prosecution of another person who has committed an offense, the court may depart from the guidelines.

(a) The appropriate reduction shall be determined by the court for reasons stated that may include, but are not limited to, consideration of the following:

(1) the court's evaluation of the significance and usefulness of the defendant's assistance, taking into consideration the government's evaluation of the assistance rendered;

(2) the truthfulness, completeness, and reliability of any information or testimony provided by the defendant;

¹ Using this scale: Exceptional, Very Significant, Significant, Moderate, and Minimal.

- (3) the nature and extent of the defendant's assistance;
- (4) any injury suffered, or any danger or risk of injury to the defendant or his family resulting from his assistance;
- (5) the timeliness of the defendant's assistance.

WHEREFORE, the government respectfully requests that this Court depart downward as the Court deems appropriate in imposing sentence on the aforementioned defendant.

Respectfully submitted,

EDWARD J. TARVER
UNITED STATES ATTORNEY

/s Brian T. Rafferty

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CERTIFICATE OF SERVICE

This is to certify that I have on this day served all the parties in this case in accordance with the notice of electronic filing (“NEF”) which was generated as a result of electronic filing in this Court.

This 9th day of June, 2014.

Respectfully submitted,

EDWARD J. TARVER
UNITED STATES ATTORNEY

s/ Karl I. Knoche

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