

UNITED STATES DISTRICT COURT  
MEMORANDUM


Date: December 7, 2010  
To: Counsel of record and pro se defendants  
Re: U.S. v. Davis and Reed, 10-cr-0041  
From: Judge Kornmann

I have not yet seen the presentence report (which is not surprising since the sentence hearing is not set until February 14). However, I want to give all concerned as much advance notice as possible of possible and likely sentencing issues.

One of the issues at sentencing will be the question of whether to impose consecutive sentences on some or all of the charges. I draw your attention to 18 U.S.C. §3584 which includes the directive to consider the factors set forth in 18 U.S.C. §3553(a). I intend to follow that procedure.

This memorandum will also give notice that I will be considering upward departures based on the conduct of the defendants before trial, during trial, and after trial. I will be considering what criminal history category is appropriate, especially given the question of whether the defendants are likely to commit further federal crimes in the future. I have no idea what the criminal history category of each defendant is at this time but the question will arise whether that category is sufficient, given the actual criminal history of the defendant in question and the likelihood that he will commit further crimes. Have the defendants pursued a course of conduct to the effect that they are above the law and are they likely to continue to pursue that course of conduct in the future?

Thank you for your attention to these matters.

  
CHARLES B. KORNMANN  
UNITED STATES DISTRICT JUDGE  
United States Courthouse  
102 Fourth Avenue SE, Suite 408  
Aberdeen, SD 57401  
605-377-2600

cc: Clerk's file  
Susan Margolies  
U.S. Probation, North Dakota