

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA v. HASAN MORRISON	CRIMINAL ACTION NO. 15-306
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MEMORANDUM

Baylson, J.

December 2, 2019

The Defendant, Hasan Morrison, pled guilty to Count One of an Indictment charging conspiracy to distribute five kilograms or more of cocaine, and was sentenced on June 29, 2017 to a term of imprisonment of 168 months.

Defendant has filed a *pro se* motion, pursuant to Rule 36, to correct the sentencing transcript or to take judicial notice of an error (ECF 55). Defendant asserts that an error occurred because the Assistant United States Attorney made an improper statement at his sentencing hearing.

The Government's response, by letter dated October 21, 2019, is signed by Assistant United States Attorney Salvatore Astolfi, who was present at the hearing.

Initially, the Defendant's attorney, at the time of the plea, Brian McMonagle, Esquire, had apparently called Mr. Astolfi in September 2018 asserting there was an error. Mr. Astolfi responded as follows:

After having reviewed the transcript, I agree that on page 6 there is a minor error. Specifically, the reference by the prosecutor to the "3553(e)" factors appears to be incorrect. Although the transcript accurately reflects what was said during the sentencing hearing, it is quite clear that the prosecutor intended to say, the "3553(a) factors." As you know, this minor misstatement had no impact on the sentencing of Mr. Morrison, as it was clear to all who were present, including the Court that the prosecutor was referring to the 3553(a) factors that the Court must consider at the

time of sentencing. However, I believe it was important to clarify this as you requested.

The Defendant filed a *pro se* motion as noted above, asserting that he is prejudiced by this error and requests relief.

In Mr. Astolfi's response, dated October 21, 2019, Mr. Astolfi represents that he has reviewed both the transcript and audio recording of the sentencing hearing and determined that the transcript accurately reflects what the Assistant United States Attorney at the time of the sentencing stated, but concedes that there was an inadvertent citation to the wrong subsection of 18 U.S.C. § 3553.

During the sentencing hearing, the AUSA said, in relevant part, "... We believe a sentence of 168 months ... would satisfy the 3553(e) factors." Based on my familiarity with the case and my thorough review of the sentencing documents, the transcript and the audio file from the sentencing hearing, it is clear that the AUSA misspoke. Instead of citing to 18 U.S.C. § 3553(a) she inadvertently cited to 18 U.S.C. § 3553(e), which was not applicable to Mr. Morrison's sentencing hearing. I previously addressed this issue in a letter to Mr. Morrison's counsel dated September 18, 2018. I have attached a copy of the letter from the Court's convenience.

The Court finds that the transcript is accurate but there was a misstatement, which the Court agrees was inadvertent and not prejudicial.

For the above reasons, the Court will enter an Order denying Defendant's Motion.

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ORDER

AND NOW this 2nd day of December, 2019, for the reasons stated in the foregoing Memorandum, Defendant's Pro Se Motion Pursuant to Rule 36 to Correct Sentencing Transcript or To Take Judicial Notice of Error is **DENIED**.

There are no grounds for a certificate of appealability.

BY THIS COURT:

/s/ Michael M. Baylson

MICHAEL M. BAYLSON
United States District Court Judge