

2. *The Corrected Guidelines Range of 21 to 27 Months' Imprisonment Is Correct*

The defense submission is correct that at the time of the Plea Agreement, the parties believed that the Stipulated Guidelines Range of 41 to 51 months' imprisonment was the correct Guidelines calculation. For the reasons set forth in the defense submission, however, the Government agrees that the defendant's prior narcotics conviction does not constitute a "controlled substance offense" under § 2K2.1(a). The Government accordingly agrees that the proper Guidelines range is the Correct Guidelines Range of 21 to 27 months' imprisonment.

3. *A Sentence Within the Corrected Guidelines Range Is Appropriate in this Case*

For the reasons set forth below, the Government submits that a sentence within the Corrected Guidelines Range of 21 to 27 months' imprisonment would be sufficient but not greater than necessary to serve the legitimate purposes of sentencing.

a. *The Nature and Circumstances of the Offense and the Need for the Sentence Imposed to Reflect the Offense's Seriousness*

First, a sentence within the Corrected Guidelines Range is necessary to reflect the seriousness of the offense. The defendant is not a happenstance victim who purchased a firearm only to protect himself. As the Court has previously recognized based on the evidenced proffered by the Government, the defendant was a "drug dealer engaged in an ongoing and violent feud with a rival drug dealer." *See* Dkt. 13.

Moreover, there is no evidence that that the defendant purchased his illegal firearm *after* he was threatened by this rival dealer. Instead, the defendant admitted in a post-arrest statement that his rival threatened him earlier on the day shooting. The circumstances suggest that the defendant purchased his illegal firearm *before* he was threatened by his rival and did so in order to protect his drug territory.

b. *The Defendant's History and Characteristics*

Second, the defendant's history and personal characteristics warrant a sentence within the Corrected Guidelines Range of 21 to 27 months' imprisonment. This is the defendant's second felony conviction by the age of 22. His first conviction, at the age of 19, arose from his attempt to sell cocaine to an undercover officer. PSR ¶ 33.

Rather than get his life back on track following that conviction, he failed to report to Probation at least 13 times, failed to comply with a home visit at least 9 times, failed to comply with employment training, and failed to advise the Probation Officer of an address change. *Id.* His conduct was so deplorable that Probation issued a Violation Report stating, "[W]hile on probation, the probationer has been resistant with probation and undermines any effort to effectively supervise him in the community." *Id.* After several unsuccessful attempts by the Probation Officer to bring the defendant into compliance, he was ultimately resentenced to a term of incarceration of six months, ending October 2018. *Id.* Yet within a year and a half of his release, he was involved in a turf war with a rival drug dealer.