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1 UNITED STATES DISTRICT COURT DISTRICT OF MINNESOTA 2 \_\_\_\_\_ 3 United States of America, ) File No. 18-cr-301 4 (NEB-DTS) ) Plaintiff, ) 5 ) St. Paul, Minnesota vs. ) 6 November 16, 2020 ) 11:02 a.m. Alonzo Pierre Mingo, ) 7 ) Defendant. ) 8 ) 9 BEFORE THE HONORABLE NANCY E. BRASEL 10 UNITED STATES DISTRICT COURT JUDGE (SENTENCING) 11 APPEARANCES 12 For the Plaintiff: U.S. Attorney's Office EMILY POLACHEK, AUSA 13 600 U.S. Courthouse 300 South Fourth Street 14 Minneapolis, Minnesota 55415 15 For the Defendant: Caplan & Tamburino CHARLES CLAS, JR., ESQ. 16 Suite 525 10 South Fifth Street 17 Minneapolis, Minnesota 55402 18 ERIN D. DROST, RMR-CRR Court Reporter: Suite 146 316 North Robert Street 19 St. Paul, Minnesota 55101 20 21 22 23 24 Proceedings recorded by mechanical stenography; 25 transcript produced by computer.

1	PROCEEDINGS
2	IN OPEN COURT
3	(Defendant present)
4	THE COURT: Good morning. We are on the record.
5	Madam Clerk, would you call the case for us, please.
6	THE COURTROOM DEPUTY: United States of America v.
7	Alonzo Pierre Mingo, Criminal Case Number 18-cr-301.
8	Counsel, please state your appearances for the
9	record.
10	MS. POLACHEK: Good morning. Emily Polachek on
11	behalf of the United States.
12	THE COURT: Good morning, Ms. Polachek.
13	MR. CLAS: Charles Clas, C-l-a-s, appearing on
14	behalf of defendant Alonzo Mingo.
15	THE COURT: Good morning, Mr. Clas.
16	And good morning, Mr. Mingo. How are you today?
17	THE DEFENDANT: I'm doing all right, and yourself?
18	Good morning to you as well.
19	THE COURT: Good. Who do you have with you here
20	today?
21	THE DEFENDANT: That's my children, my brother,
22	sister, and the mother of my children.
23	THE COURT: I'm really glad that you are all here.
24	Did you travel from Mississippi to be here?
25	UNIDENTIFIED SPEAKER: Yes.

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1 Did you really? And from Illinois and THE COURT: 2 your sister --3 UNIDENTIFIED SPEAKER: Illinois. 4 THE COURT: And Illinois as well. I'm so -- I'm 5 glad that you are here. 6 All right. We are here today for sentencing, and 7 I want you all to know that in preparation for sentencing, 8 I've reviewed the presentence report, which is lengthy, and 9 provided to me by probation; the relevant provisions of the 10 sentencing guidelines; the position papers that you all have 11 submitted; and I have read all of your letters as well and I 12 appreciate them. I've also consulted with the probation 13 officer, Officer Smith, and re-reviewed the plea agreement 14 and then the Information that was filed in this case after 15 the Indictment. And my understanding is the Indictment 16 would be dismissed upon sentencing here today. 17 As to the PSR and the addendum, Ms. Polachek, have 18 you received the PSR and the addendum and reviewed them? 19 MS. POLACHEK: Yes, Your Honor. THE COURT: And, Mr. Clas, same with you? 20 21 MR. CLAS: Yes, Your Honor. 22 THE COURT: And have you read and discussed those 23 documents with Mr. Mingo? 24 MR. CLAS: I have, Your Honor. 25 THE COURT: And am I correct that neither the

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1	defendant nor the Government has any objections to either
2	the factual statements or the determination of the guideline
3	range in the PSR? Ms. Polachek?
4	MS. POLACHEK: That's correct on behalf of the
5	Government, Your Honor.
6	THE COURT: Thank you.
7	And, Mr. Clas?
8	MR. CLAS: That is correct, Your Honor.
9	THE COURT: All right. And so as to the guideline
10	range, the first thing I'll do is to grant a two-level
11	downward adjustment for acceptance of responsibility.
12	That's due to your plea and cooperation here today,
13	Mr. Mingo, and at your plea.
14	Ms. Polachek, does the Government move for an
15	additional one-level reduction in the offense level for
16	acceptance of responsibility?
17	MS. POLACHEK: Yes, Your Honor, we do.
18	THE COURT: Okay. And so that motion is granted.
19	The guidelines range in this case is a total
20	offense level of 19, a Criminal History Category of V,
21	resulting in a recommended imprisonment range of 57 to
22	71 months, a recommended supervised release range of one to
23	three years, a fine range of \$10,000 to \$100,000, and a
24	special assessment that is mandatory of \$100.
25	Ms. Polachek, does the Government have any

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1	objections to those calculations?
2	MS. POLACHEK: No, Your Honor.
3	THE COURT: And does the defense?
4	MR. CLAS: No, Your Honor.
5	THE COURT: All right. And so we'll move to the
6	sentence itself. I'd like to hear first from Mr. Clas, if
7	you have anything you wish to say in addition to the papers
8	that you've submitted to the Court; and then from the
9	Government; and then, Mr. Mingo, if you wish to say
10	anything, you're welcome to do so. I have reviewed your
11	letter which was really well done.
12	So, Mr. Clas, first to you.
13	MR. CLAS: Thank you, Your Honor. As the Court is
14	aware, we have already filed a motion and are requesting
15	here today a downward variance. We have submitted a
16	position on sentencing, which I understand the Court has
17	reviewed, so for the purposes of today, I wish to just draw
18	out some highlights of what we have already submitted to the
19	Court.
20	First, Your Honor, I would like to focus on the
21	circumstances and the actual offense that Mr. Mingo stands
22	before the Court today on. It is solely a possession
23	offense. As the Court is aware, there is many ways that a
24	person can find themselves in trouble for felon in
25	possession or a prohibited person in possession of a

firearm, and, luckily, Mr. Mingo found himself in a situation where the firearm was not being used. There are no allegations of violent attempts with respect to the use of the firearm or any other conspiracy to commit violence or anything like that as it relates to his activity prior to law enforcement arriving at the gas station.

7 The fact that this is a true possession offense, Your Honor, should not be discounted when we consider the 8 9 multiple ways that a person could commit the very same 10 offense but could also be committing it in a way that could 11 potentially give us much more concern or could lead to much 12 more actual damage than what occurred here. In arguing 13 this, Mr. Mingo does not attempt to minimize his offense in 14 any way, but just that he wishes the Court to know, and I'm 15 arguing on his behalf, that I think it's important we keep 16 in mind the fact that this is a true felon in possession 17 offense, nothing more, nothing less.

Perhaps more relevant to our sentencing decision today is Mr. Mingo's personal characteristics, which for the sake of this argument, I consider to include both his criminal history, his upbringing, and then where he stands today with family members and other things he has going on with his life.

24The Court is aware of Mr. Mingo's criminal25history. I will not delve too deep into that. But in

1	speaking with Mr. Mingo and going over how he is
2	characterized in the State's sentencing papers and how his
3	criminal background appears when you read the black and
4	white wording of a PSI, the concern is that the charges that
5	he has faced of the more serious nature that could
6	potentially involve alleged violent acts. In speaking with
7	Mr. Mingo and getting an understanding as to how those court
8	cases played out, it appears to me, and I think the results
9	of those cases or the charges that Mr. Mingo ended up being
10	convicted of as opposed to what he initially was charged of,
11	represent the fact that the violent nature of the initial
12	charges was perhaps slightly overstated or paints a picture
13	of Mr. Mingo in a much more directly violent capacity than
14	the end results and we would have to infer that the evidence
15	in those case actually showed. So I would just like the
16	Court to keep that in mind, and I know Mr. Mingo would
17	appreciate that as well, when reviewing his criminal history
18	with respect to his sentence here today.

19 Ultimately, Your Honor, Mr. Mingo is here due to 20 choices and circumstances that came into his life at a young 21 age. This conduct is not necessarily something that is new, 22 and that's both a good and a bad thing as we stand here 23 today, but the fact that it is confirmed that he has been 24 involved in some capacity with a lifestyle that 25 unfortunately just breeds this type of behavior really

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1	should not be discounted here. I don't remember the exact
2	ages as reported in the PSR, but Mr. Mingo was extremely
3	young when he first started to become involved in
4	essentially this street life activity. And from a pretty
5	young age, he experienced extreme violence, you know, not
6	just fist fights or petty crime, but actual violence that
7	resulted in death and substantial injury, not just to
8	himself, but, most importantly, to his brother at a very
9	young age he saw pass away. And, you know, I believe
10	Mr. Mingo hits upon this in his letter, but that changes a
11	person and makes them behave in ways that probably another
12	person who didn't see that type of activity wouldn't behave.
13	Mr. Mingo, though, understands that he's older
14	now. He's a father. I'll talk about that in a second. But
15	his children are here today in the courtroom. And what
16	happened to him when he was younger and the things that he
17	carried with him as he got older need to stop now. And it's
18	not an excuse anymore. And he spent a long period of
19	incarceration already on this offense, and the time that he
20	spent behind bars has certainly made him realize that, you
21	know, this is it if he wants to be the person that he wants
22	to be for his children and wants to be there for his family.
23	His upbringing, although helps explain why we're here today,

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ERIN D. DROST, RMR-CRR (651) 848-1227

ultimately can carry him much further, and he understands

that. And I think the best testimony to the fact that that

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1 will come true or he will follow through on that is the 2 people who are here behind us. 3 I personally would expect that a person who has 4 been in and out of the system as much as Mr. Mingo has 5 probably wouldn't have many people here at this stage and 6 time, but Mr. Mingo does. And I think that that is 7 definitely a testament to who they think he can be, but also 8 the person that he has been. 9 Despite his incarceration, despite his past 10 criminal behavior, his children are very clearly a big part 11 of his life, and, as the Court already noted, made the trip 12 up here from Mississippi in COVID times to be here and 13 support their father and support their brother and 14 ultimately be there. And when he is released, whenever that 15 is, he's going to return to them. He's already made 16 arrangements to reside with his brother who is here today 17 who, as noted in the PSI, is a productive member of society 18 and seems to have had relatively little trouble and will be 19 a great support person for Mr. Mingo. And I know the rest 20 of his family, who he may not be living directly with, will 21 definitely help support that, and they are here for him. 22 And, again, I don't think necessarily we need to look to 23 Alonzo in this case for proof that he can be rehabilitated. 24 It's the people behind him who stand here today and will 25 continue to support him regardless of what the sentence is.

> ERIN D. DROST, RMR-CRR (651) 848-1227

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1	So, Your Honor, for those reasons, we are asking
2	for a downward variance that the Court would deem
3	appropriate. Thank you.
4	THE COURT: Thank you.
5	Ms. Polachek.
6	MS. POLACHEK: Thank you, Your Honor. While this
7	is a possession case, there is, in fact, more to it. And,
8	namely, that is that Mr. Mingo was on parole and had been on
9	parole for less than a year at the time of this offense.
10	And he was on parole for aggravated battery that involved a
11	shooting, so this was another gun offense that he was on
12	parole for.
13	He was in Minnesota in violation of the conditions
14	of that parole. He had a gun in violation of the conditions
15	of his parole. And this marks his third conviction for
16	being a felon in possession of a firearm. He was previously
17	sentenced to serve multiple years in prison on those prior
18	convictions, and yet we sit here still today. The fact that
19	none of those sentences, including a five-year sentence,
20	have done anything to deter him from continuing to possess
21	guns and engage in criminal activity shows that there's a
22	strong need for specific deterrence in this case.
23	And so for that reason, we would ask for a within
24	guidelines sentence of 60 months in custody to be followed
25	by a term of at least a year of supervised release.

1 THE COURT: Thank you. 2 Mr. Mingo, is there anything further that you wish 3 to say here today? 4 MR. CLAS: And, Your Honor, can I just respond 5 briefly? Mr. Mingo brought something to my attention that I 6 failed to mention in my original statements to the Court. 7 THE COURT: Yes. 8 MR. CLAS: With respect to the one prior that the 9 State just brought up, I just would like to clarify 10 something that I know Mr. Mingo has brought to my attention 11 is that that was what I was referencing with respect to how 12 offenses that started as one thing ultimately pled down to 13 another thing. And the use of the gun in that started as an 14 accusation in that case, according to Mr. Mingo, that 15 ultimately was pled down to something that was not directly 16 involving a firearm due to what the evidence showed. And I 17 would just like to bring that to the Court's attention. 18 That's all I have. 19 THE COURT: Thank you. 20 MS. POLACHEK: Your Honor, if I may, to be clear, 21 that was the prior offense involving a shooting. The 22 aggravated battery was indeed an aggravated battery with a 23 firearm offense that he was convicted of. 24 THE COURT: All right. Thank you. 25 Mr. Mingo.

1 Yes. Um, I'd like to first THE DEFENDANT: 2 apologize to my family for them having to travel here to 3 Minnesota to be here on my behalf, but I am thankful that 4 they are here. And I want them to know that this will be 5 the last time that they will feel the need to have to stand 6 beside me in a criminal matter because it's the end of me 7 breaking the law. And they have my word on that. And I'm 8 truly sorry for letting you all down, especially AJ and 9 Alijah. And, AJ and Alijah, you -- you know, I'll never 10 leave you again, and I promise you that, you know. You know 11 I don't make promises that I don't keep, and I never will.

12 And, Your Honor, I'd like to apologize for my 13 actions of possessing a firearm and having to be here in 14 front of you today. My actions basically was a reflection 15 of my stupidity, as well as my fear. And I assure you I 16 will never pick up another firearm again. It's not worth 17 the heartache or the distance that it puts between me and my 18 family, and I don't like it. And I'm definitely done with 19 that lifestyle. And I was once told before that I was a 20 product of my environment, but, today, I know in my heart 21 that I stand before you a product of change -- well, am 22 sitting before you a product of change. I just ask that you 23 forgive me and that you believe me when I say that I'm done 24 breaking the law and I am redeeming my life. That's it. 25 THE COURT: One moment.

Yolanda, did you used to be in Atlanta? Is
Yolanda here?
UNIDENTIFIED SPEAKER: No.
THE COURT: Oh, which sister is here? I'm sorry.
THE DEFENDANT: Carol.
THE COURT: Okay. Yolanda is still in Atlanta?
THE DEFENDANT: Yeah, she's still she still is
in Atlanta right now.
THE COURT: Okay. Okay. I was confused about who
was here and who isn't. I got you. Thank you so much.
Okay. And Alonzo, Jr., goes by AJ? All right.
Okay.
Sentencing goes in two parts. The first is that I
go through the law that I am required to apply here in
achieving a sentence, and I try to then explain how I got to
the sentence that I created. And then the second is a
formal imposition of the sentence. I need to read all of
the requirements of the sentence. So it's really in two
parts.
And I start with saying, Mr. Mingo, that you've
been charged with and have pled guilty to a count of being a
felon in possession of a firearm in violation of
18 U.S.C. 922(g)(1) and 18 U.S.C. 924(a)(2). Based on your
guilty plea to that count, this is now the time for

1	18 U.S.C. 3553(a). And that directs Courts to impose a
2	sentence that is sufficient, but not greater than necessary,
3	to achieve the purposes set forth in the statute. And there
4	are a few of those purposes that I need to consider, and
5	some here stand out more than others as applied to
6	Mr. Mingo.
7	First, the sentencing guidelines create a starting
8	point and an initial benchmark. I don't presume that the
9	guidelines range presented in the sentencing guidelines is
10	reasonable. Instead, I consider all of the factors in the
11	statute. And having considered all of those factors, I find
12	that a sentence of 57 months is sufficient, but not greater
13	than necessary, to comply with the purposes of the
14	sentencing statute.
15	Those are to reflect the seriousness of the
16	offense; to promote respect for the law; to provide just
17	punishment; to deter you, Mr. Mingo, and others from
18	committing crimes in the future; to protect the public; to
19	provide you, Mr. Mingo, with needed care, treatment, and
20	training; and to avoid unfair disparities between you and
21	other people who have been sentenced to similar crimes and
22	who are similarly situated.
23	Here's how I got there. I am struck by your
24	background, and it isn't because I think you're a product of
25	your environment. It isn't because of the violent

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1	circumstances that you have grown up in. I am struck by the
2	story of your family. And what it shows me is that at age
3	34, you can and will turn it around. You had a grandmother
4	who went to college in her adult life, after she was 50,
5	right?
6	THE DEFENDANT: Yes.
7	THE COURT: That's amazing. That's amazing.
8	Kids, you're smart in part because of your
9	grandmother. I have to believe that. Do you believe that?
10	UNIDENTIFIED SPEAKER: (Nods head.)
11	THE COURT: Yeah. You had a mother who went back
12	to school in her adult life so that she could provide for
13	you and your siblings. You can do that too. I believe
14	that. So putting aside the violent nature of your
15	background, I believe you can turn this ship around, and
16	that's what I want you to hear from me here today. And you
17	need to turn it around. You're very lucky to be alive in my
18	view.
19	THE DEFENDANT: Yes.
20	THE COURT: You have a sister who's taken an
21	educated path. You have the mother of your children who is
22	here supporting you and raising those children to be amazing
23	children. I love what I'm reading about both of you boys,
24	and I'm really, really hopeful for your future. And I'm
25	really, really impressed by how smart both of you are.

1	I don't know how you're going to process seeing
2	your dad where he is right now. I don't know how you do
3	that, but I do know that your mom is going to help you
4	through it. I do know that you're probably going to get
5	angry at some point and I get that too, but your mom will
6	help you to make sure that that anger doesn't turn into
7	anything terrible. Okay? All right. I know you probably
8	didn't come here for a lecture, but I can't help myself.
9	I'm a mom too.

All right. The nature of the circumstances of the offense I understand are borne of your perceived need to carry a firearm; but you know now, I hope, that what you are doing there is perpetuating a cycle that has no end except more violence. I get your thinking, but you are 34, and it's time to be done.

16 I feel like you've tempted fate more than your 17 share of times. I think you're going to have difficulty 18 establishing a stable and a law-abiding lifestyle until you 19 make a serious break with the influences in your life that 20 have led to you sitting where you are right now. So I get 21 that strength seems like a gun sometimes, but when you get 22 out, strength is going to be resisting that lifestyle. And 23 that's going to take a network of people, and it's going to 24 take your own strength and your own willingness to change. 25 So when I take those variant -- or when I take

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1	those factors into account, your history, and the nature and
2	the circumstances of the offense here, and the difficulty
3	that we have with the violence that firearms cause, I don't
4	see a variance here. To me, there are some mitigating
5	circumstances due to your family, and there's some
6	aggravating circumstances due to the nature of your long
7	history in the justice system, and including with firearms,
8	and so they equal out in my view, and they warrant a
9	guideline sentence. I've placed that at the bottom of the
10	sentence because I do have faith that you can be done with
11	this.

12 I also considered the seriousness of the offense, 13 the respect for the law, and just punishment, and protection 14 of the public, which is very important particularly right 15 now when it comes to firearms. Frankly, those factors could 16 carry a far greater sentence than 57 months, and there are 17 many Courts who would vary upwards given the extreme gun 18 violence we are experiencing. My sentence is on the low end 19 of the quideline range, again, because I'm choosing to 20 believe you can turn this around given your age and the 21 support of your family.

I want to say one thing about care and treatment. I think you're starting to take advantage of some of the programming that is available to you. I know that's limited because of COVID, but you've talked a little bit about

1	counseling. I would strongly encourage that in your case.
2	There is no way that you go through what you've gone through
3	in your life without having that affect your mental health,
4	and, again, that's a sign of strength to get help for that
5	and it will make you stronger going forward.
6	In addition, probation is going to be here to
7	support you after you get out. They really are on your
8	side, and they really want you to succeed. And I'm urging
9	you to take advantage of the services that they are going to
10	offer on your supervised release.
11	I have reviewed the sentence of individuals in
12	your position. Those most individuals in your position
13	have received guideline sentences, so I think this sentence
14	does not create unwarranted disparities between or among
15	defendants.
16	So I'm going to go over your formal sentence,
17	which is as follows:
18	You'll be committed to the custody of the Bureau
19	of Prisons for a period of 57 months.
20	Mr. Clas, is there a recommendation that you would
21	like me to include?
22	MR. CLAS: Your Honor, we would request a facility
23	closer in Illinois.
24	THE COURT: All right. I will put that request in
25	for you.

1	I will order no fine and no restitution.
2	I'm going to place you on supervised release upon
3	release of imprisonment for a period of three years. The
4	following mandatory conditions are applicable:
5	One, you shall not commit any crimes; federal
6	state, or local. And you just promised me this was your
7	last time breaking the law.
8	THE DEFENDANT: Yeah.
9	THE COURT: You shall not possess a controlled
10	substance and refrain from using a controlled substance, and
11	you'll submit to one drug test within 15 days of your
12	release from imprisonment and at least two periodic drug
13	tests thereafter as determined by the Court.
14	You shall cooperate in the collection of DNA as
15	directed by the probation officer.
16	You shall adopt abide by the standard
17	conditions of supervised release that have been adopted by
18	the Court. That includes reporting to the Probation Office
19	within 72 hours of your release from imprisonment unless the
20	probation officer instructs you to report to a different
21	office or within a different timeframe.
22	You shall not own, possess, or have access to a
23	firearm, ammunition, destructive device, or other dangerous
24	weapon.
25	In addition, there are a few special conditions

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1	I'm going to put in place as well, and they are as follows:
2	You'll submit to substance abuse testing as
3	approved and directed by the probation officer.
4	And you'll submit the area under your control,
5	including your person, your residence, your office, your
6	vehicle, to a search conducted by a probation officer or a
7	supervised designee at a reasonable time and in a reasonable
8	manner based upon reasonable suspicion of contraband or
9	evidence of a supervision violation. So that means that you
10	need to warn any residents or third parties that the
11	premises and area under your control may be subject to
12	searches pursuant to this condition. So that includes your
13	brother if you are living with your brother, okay?
14	THE DEFENDANT: Okay.
15	THE COURT: If not employed as deemed appropriate
16	by a probation officer, you may be required to perform up to
17	20 hours of community service per week until you're
18	employed. It is my hope that you are employed, and I know
19	that is your plan as well.
20	You must also participate in training, counseling,
21	daily job search, or other employment-related activities if
22	you are not fully employed. And the probation officer will
23	direct you in those activities.
24	There is a \$100 special assessment for the Crime
25	Victims Fund. It is required by statute to be paid

1	immediately. So that will be part of the judgment here.
2	And you will remain in custody to serve out your
3	time, and then we'll get to supervised release. You have a
4	couple of years already under your belt, right?
5	THE DEFENDANT: Yes.
6	THE COURT: Yeah. So serve your time and be done.
7	THE DEFENDANT: Yes.
8	THE COURT: All right?
9	THE DEFENDANT: Yes.
10	THE COURT: Keep in touch with the boys.
11	Boys, you're going to continue to do well in
12	school?
13	UNIDENTIFIED SPEAKER: (Nods head.)
14	THE COURT: Okay. Do you have plans for college?
15	UNIDENTIFIED SPEAKER: (Nods head.)
16	THE COURT: Both of you going to college?
17	UNIDENTIFIED SPEAKER: Yes.
18	UNIDENTIFIED SPEAKER: I don't know.
19	THE COURT: We don't know yet? Okay. All right.
20	But you are going to continue to get those good grades?
21	UNIDENTIFIED SPEAKER: (Nods head.)
22	THE COURT: Yeah. Are you online school right
23	now?
24	UNIDENTIFIED SPEAKER: Yes.
25	THE COURT: Uh-huh. How is that going?

1	UNIDENTIFIED SPEAKER: Good.
2	THE COURT: It's all right? Okay. All right.
3	Ms. Polachek?
4	MS. POLACHEK: Your Honor, we would move to
5	dismiss the Indictment at this time.
6	THE COURT: That motion is granted. The
7	Indictment is dismissed.
8	Mr. Clas, is there anything else that you want to
9	bring before the Court?
10	MR. CLAS: Nothing further, Your Honor.
11	THE COURT: All right.
12	Mr. Mingo, sir, I'd like to hear from you when you
13	get out.
14	THE DEFENDANT: Okay.
15	THE COURT: I don't know if it's your grandma or
16	your mom or you, but I have taken an interest. So I want
17	you to let me know how you are doing when you get out, okay?
18	THE DEFENDANT: I assure you I will.
19	THE COURT: All right. Thank you.
20	THE DEFENDANT: All right.
21	MR. CLAS: Thank you, Your Honor.
22	THE COURT: Thank you. We're adjourned.
23	THE LAW CLERK: All rise. The Court is now in
24	recess.
25	(Court adjourned at 11:31 a.m.)

1	* * *
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4	I, Erin D. Drost, certify that the foregoing is a
5	correct transcript from the record of proceedings in the
6	above-entitled matter to the best of my ability.
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8	Certified by: <u>s/ Erin D. Drost</u>
9	Erin D. Drost, RMR-CRR
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