



UNITED STATES ATTORNEY'S OFFICE EASTERN DISTRICT OF VIRGINIA

ALEXANDRIA NEWPORT NEWS NORFOLK RICHMOND

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**Statement of United States Attorney Chuck Rosenberg Regarding
United States v. Peace, Phillips, Taylor, and Vick**

The four defendants in this case have entered felony guilty pleas to the charged conspiracy in federal court and await sentencing. These cases are thus no different than most cases in the federal system: confronted with compelling inculpatory evidence, each defendant admitted his criminal conduct under oath in open court, and entered a binding written plea agreement with the United States.

Approximately 95 percent of criminal cases are resolved this way – on terms highly favorable to the government. For instance, in each of these four cases, the defendant waived his constitutional right to a trial, entered a plea of guilty, waived any appeal of his conviction or sentence, and agreed to cooperate fully and truthfully with the United States in any ongoing investigation. That is a decidedly efficient and just resolution of these cases.

The four men were charged by a federal grand jury on July 17, 2007, in a single count felony conspiracy. That conspiracy contained two distinct objects. The first object was to violate the “Travel Act” by illegal gambling on interstate dog fighting. That object is a felony. The second object was to sponsor dogs in an illegal animal fighting venture. That object is a misdemeanor.¹

The felony conviction carries a maximum sentence of five years in prison and a fine of up to \$250,000. At trial, a jury could have convicted the men on the first object of the conspiracy (a felony), the second object (a misdemeanor), both objects, or neither object. If convicted of the first object or of both objects, the maximum prison sentence would be five years. If convicted only of the second object, the maximum prison sentence would be one year and the maximum fine would be \$100,000.

¹ Congress in May 2007 made this crime a felony – a date subsequent to the crimes committed in this case.

Although we could have asked the Grand Jury to consider additional substantive charges against these men, the essence of the case, properly and fairly charged, would have remained about the same and the actual sentence (as opposed to the statutory maximum sentence) likely would have also remained about the same.

Knowledgeable observers of the federal criminal process understand that the actual sentence is determined by a judge at sentencing and based, appropriately, on the advisory Guidelines promulgated by the United States Sentencing Commission. Statutory maximum sentences often are much greater than the guideline-driven sentences defendants actually receive in federal court, whether convicted at trial or through a plea agreement.

For instance, for an individual with no prior criminal record, convicted of both objects of this conspiracy, the Guidelines appear to advise a sentencing range of zero to six months in prison. Thus, despite the statutory maximum sentence of five years, a first time offender might well receive no jail time for this offense. We thought, however, that the conduct in this conspiracy was heinous, cruel, and inhumane, and that the advisory guidelines understated the appropriate sentence for three of the four defendants.²

Therefore, we required the second, third, and fourth defendants to accept an additional provision in the plea agreement. In that provision, these defendants stipulated, essentially, that the guidelines indeed understated the severity of their conduct and that a sentence substantially above what would otherwise be called for by the Guidelines would be appropriate. The parties thus agreed to recommend to the Judge that the advisory sentencing range for these three defendants (assuming no prior criminal record) should be 12 to 18 months in prison, rather than zero to six months in prison. If a defendant has a prior criminal record, the resulting sentencing range would be higher still.

And, while plea agreements in the federal system are common, it is highly unusual for a defendant to agree to recommend a sentence above the advisory guideline range. Although the Judge is not bound by this part of the agreement, we will respectfully ask the Judge to adopt that provision when he sentences these three defendants. Thus, in a case in which the federal sentencing guidelines would ordinarily advise that a first-time offender is probation eligible and may serve no more than six months in prison, these three defendants may well be imprisoned substantially longer for their crimes.

That result is due to the excellent work of the federal, state, and local investigators in this case, including Senior Special Agent James Knorr and his colleagues from the U.S. Department of Agriculture, Office of Inspector General; Sheriff Harold Brown and Deputy Sheriff Bill Brinkman from the Surry County Sheriff's Office; the Virginia State Police; and Dr. Melinda Merck, a Forensic Veterinarian with the American Society for the Prevention of Cruelty to Animals. The United States was well represented by two extraordinary Assistant United States Attorneys, Mike Gill and Brian Whisler.

² The first defendant to plead guilty and cooperate in the investigation terminated his relationship with the other three defendants in 2004 and is not similarly situated.