

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION
CRIMINAL CASE NO. 4:14CR00409-001RBH

UNITED STATES OF AMERICA,)
)
vs.)
)
REGINALD WAYNE MILLER)
_____)

**MOTION FOR A DOWNWARD
DEPARTURE DUE TO VARIANCE**

Attorney for the Defendant Dr. Reginald Wayne Miller has filed a Presentence Report, the U.S. Attorney has filed a Presentence Report and Probation and Parole has also filed a Presentence Report.

The U.S. Attorney and attorney for Defendant have reached an agreement as to the appropriate application of the sentencing guidelines due to the conduct of Dr. Miller based on his plea and have agreed that the appropriate sentence guideline is 3-6 months.

This sentence guideline would make Dr. Miller eligible for probation and as the Court is aware, Dr. Miller has already served 3 months and several days in incarceration pretrial.

All of the reasons are set forth in the Presentence Report, i.e. that Dr. Miller received no funds; further, he worked alongside his students, performing all the tasks they did (kitchen work, cleaning duties and all other menial tasks).

Dr. Miller had no responsibility to pay the students, it was the responsibility of the college. He is not well and has a serious medical condition. He is a threat to no one. He is on in years, has no prior criminal record.

Therefore, Dr. Miller had no pecuniary gain, is very ill, advanced in years, no prior record and the U.S. Attorney recommends a sentence of probation. All these factors are consistent with the granting of a variance. Attorney for Defendant seeks a variance should the Court not sentence within the guidelines pursuant to the view of the U.S. Attorney and attorney for Defendant.

Therefore, only in the event that the Court should disagree with the U.S. Attorney's recommended application of the guidelines with which the Defendant concurs, Defendant seeks a variance.

THE BRITTAIN LAW FIRM, P.A.
Attorneys for the Defendant

/s/ Thomas C. Brittain

Thomas C. Brittain
4614 Oleander Drive
Myrtle Beach, SC 29577
(843)-449-8562
Federal Bar No: 4920

/s/Thomas Casey Brittain, Jr.

Thomas Casey Brittain, Jr.
4614 Oleander Drive
Myrtle Beach, SC 29577
(843)-449-8562
Federal Bar No: 10680

Myrtle Beach, South Carolina
October 8, 2015