

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF FLORIDA  
PENSACOLA DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	CASE NO. 3:06cr83/MCR
vs.	)	
	)	
Jo. D. Hovind,	)	Pensacola, Florida
	)	June 29, 2007
	)	9:04 A.M.
	)	
Defendant.	)	
_____	)	

TRANSCRIPT OF SENTENCING PROCEEDINGS  
BEFORE THE HONORABLE M. CASEY RODGERS,  
UNITED STATES DISTRICT JUDGE  
(Pages 1 thru 62.)

APPEARANCES:

For the Plaintiff:	MICHELLE HELDMYER Assistant U.S. Attorney 21 East Garden Street Pensacola, Florida 32502
For the Defendant:	JEROLD W. BARRINGER, ESQUIRE Jerold W. Barringer, P.A. 102 South Pine Street Nokomis, Illinois 62075

Gwen B. Kesinger, RPR, FCRR  
Official United States Court Reporter  
One North Palafox Street \* Pensacola, Florida 32502  
(850) 432-7050

1 (Court in session.)

2 (Defendant present.)

3 THE COURT: We have a sentencing scheduled this  
4 morning in the case of United States versus Jo Hovind, Case No.  
5 3:06cr83.

6 Mr. Barringer, good morning.

7 MR. BARRINGER: Good morning, Your Honor.

8 THE COURT: You're here, present with Mrs. Hovind,  
9 good morning.

10 THE DEFENDANT: Good morning.

11 THE COURT: And Ms. Heldmyer.

12 MS. HELDMYER: Good morning, Your Honor.

13 THE COURT: And Agent Evans, good morning to you as  
14 well. And Agent Schneider is also present in the courtroom.

15 Mrs. Hovind, this is the time for your sentencing, and  
16 the way we'll proceed is I'll hear first from Mr. Barringer  
17 regarding his review of the presentence investigation report.  
18 I'll discuss with him if he has any objections to the report.  
19 I'll also hear from Ms. Heldmyer regarding the government's  
20 position on the report itself. If there are any objections to  
21 the report as drafted, I'll resolve those objections. There  
22 has also been a motion filed by the government and I'll hear  
23 that motion as well.

24 I'll hear from both attorneys regarding their position  
25 regarding your sentence and I'll also give you an opportunity

1 to address the Court regarding your sentence prior to imposing  
2 sentence. You're not required to speak; however, you do have  
3 that right and I'll advise you of that at the appropriate time.

4 Do we expect any testimony this morning?

5 MS. HELDMYER: I don't believe so, Your Honor.

6 THE COURT: Mr. Barringer?

7 MR. BARRINGER: No, Your Honor.

8 THE COURT: Mr. Barringer, have you had an opportunity  
9 to review the presentence investigation report and addendum  
10 with Mrs. Hovind?

11 MR. BARRINGER: Yes, Your Honor.

12 THE COURT: Are there any objections to the report as  
13 drafted?

14 MR. BARRINGER: I, obviously, have filed some issues  
15 dealing with how to get to the 22-point level before it's  
16 reduced to the 6-point level. As I explained to Ms. Heldmyer  
17 earlier, I'm not arguing those positions today. I've made the  
18 record that I think I need to make.

19 With respect to where the presentence report is, I  
20 think it's accurate with respect to the 2001 sentencing  
21 guidelines and the point range is six, and from there, we have  
22 what the sentencing guidelines set out as far as an appropriate  
23 sentence, appropriate fines or whatever. And so I think what  
24 Ms. Lassiter has put together is an accurate reflection of what  
25 the current law is with respect to the facts.

1 THE COURT: Thank you.

2 Ms. Heldmyer, if you wish to address the objections to  
3 the 22-level increase, you can do that as well, if you feel  
4 like you need to make a record on it.

5 MS. HELDMYER: I do not feel like an additional record  
6 needs to be made, Your Honor.

7 THE COURT: Then any objections to the report as  
8 written?

9 MS. HELDMYER: No, Your Honor.

10 THE COURT: Okay.

11 Ms. Heldmyer, you have filed a sentencing memorandum  
12 in which you have requested -- the government has requested a  
13 departure as well as a variance from the guideline, and let me  
14 state for the record the guideline range based on a total  
15 offense level of six and a criminal history category of one is  
16 zero to six months.

17 MS. HELDMYER: Would you like me to argue that at this  
18 time, Your Honor?

19 THE COURT: Yes, I would.

20 MS. HELDMYER: Thank you, Your Honor.

21 The Court has already mentioned that the United States  
22 filed what is documented as Document 208, United States Second  
23 Sentencing Memorandum to which the defense responded in  
24 document, I believe, 210. Our position is, I believe,  
25 well-stated in this particular document.

1           Primarily, first off, I would like to make clear that  
2 the position of the United States is that there are a number of  
3 reasonable sentences that can be fashioned by this Court for  
4 Mrs. Hovind, including a guidelines sentence and including an  
5 above-the-guideline sentence. We do not feel that either of  
6 those choices by the Court would be unreasonable, based upon  
7 the calculation of the guidelines and based upon the case  
8 law -- prevailing case law as it's written today in both the  
9 Supreme Court and the Eleventh Circuit.

10           We urge the Court to choose a sentence above the  
11 guidelines for the reasons that are set forth in the memorandum  
12 for both guidelines-upward-departure purposes and for variance  
13 purposes. We believe that a sentence above the  
14 zero-to-six-month guideline range is -- is supported by the  
15 record and is appropriate in this case. I'm not going to take  
16 any kind of a position as to where above the guidelines range  
17 the Court should sentence, but we do feel very strongly that  
18 the guidelines as they are written today and as they were  
19 calculated for purposes of Jo Hovind's sentencing,  
20 under-represent the seriousness for the offense for which Mrs.  
21 Hovind was convicted.

22           Primarily, Your Honor, the problem arose, obviously,  
23 when we had to apply the 2001 guidelines manual. We walk  
24 through this in the sentencing memorandum. I'm not going to  
25 get into it specifically, but it was primarily a serendipitous

1 event at the end of the counts that were charged of Mrs. Hovind  
2 in the indictment three months prior to a major change in the  
3 guidelines that precipitated this drop of 18 levels. And this  
4 was a huge difference, this was a very unique and unusual  
5 situation, Your Honor, one that I have never seen, where such a  
6 small technical issue would cause such a huge change in  
7 guidelines calculations down from a level 22 or 24, depending  
8 on which guidelines range you adhered to before, down to a six.

9 We believe that the proof at trial showed -- and the  
10 relevant conduct that the Court can take into consideration in  
11 fashioning an appropriate sentence -- shows that that kind of  
12 precipitous drop in the guidelines calculations is not  
13 appropriate -- does not lead us to an appropriate sentence.  
14 Certainly, as I conceded, the reasonableness issue, that's a  
15 different issue, but we believe the most reasonable sentence is  
16 not in the new guidelines range.

17 One of the reasons why we argued that, Your Honor, was  
18 because one of the -- the main reason why the conduct stopped  
19 and the charges stopped in -- sometime in the summertime and  
20 the fall of 2002 was because of the onset of the criminal  
21 investigation. It was not anything that -- it was not any  
22 repentance by Mrs. Hovind as to her criminal conduct. The  
23 criminal conduct of CSE and her husband continued well after  
24 that point, as the Court well knows. Evidence at trial shows  
25 that is approximately when they learned that there was a

1 criminal investigation and they started rearranging finances  
2 and changing the way they were doing things.

3           The Court may also recall that the last count that was  
4 charged in the indictment, which was in August of 2002, did not  
5 stop the cash withdrawals. That is not the last cash  
6 withdrawal that Mrs. Hovind made. It was the last cash  
7 withdrawal up close to that \$10,000 level, which we felt was  
8 the triggering of counting it or charging it as a count, and  
9 clearly the grand jury believed that as well.

10           But the Court may recall that the government  
11 introduced a number of charts that showed that the cash  
12 withdrawals continued well after that November 1st of 2002  
13 magic date in terms of the guidelines. That the cash  
14 withdrawals went down to, I think, they were probably more  
15 frequent, but they went down to \$4,000 or \$5,000. The way that  
16 they were handling their employees changed, and that probably  
17 had something to do with the drop in the amount of money that  
18 she was going to the bank and getting.

19           Any of those we could have argued, certainly -- and  
20 the relevant conduct includes all of those events into the  
21 guidelines calculations and into consideration by the Court for  
22 sentencing. And any one of them probably could have sustained  
23 a charge, but because they were not that obvious \$9,600 figure  
24 that she had run for many many months prior to that, they were  
25 not charged.

1 I may also remind the Court that evidence showed that  
2 there was, in fact, even a currency transaction report that was  
3 filed after that magic November 1st, 2002 figure. We  
4 introduced a document which was a summary of the currency  
5 transaction reports.

6 If I may ask, did Madam Clerk find the exhibit number  
7 of that?

8 DEPUTY CLERK: Yes, and it is STR-218.

9 MS. HELDMYER: STR-218 -- thank you very much -- is a  
10 currency transaction report summary.

11 As you can recall, the charges -- the transactions  
12 that were charged, no transaction report was filed by the bank  
13 because they were all under \$10,000. We showed by way of  
14 evidence that there were occasions when the bank felt that the  
15 currency transaction report requirement was, in fact, triggered  
16 and that was usually because of some precipitous event, not  
17 planned by the Hovinds, or for example, Mrs. Hovind would go in  
18 and get under \$10,000 in cash and then one of the employees  
19 would come in that very same day and cash a check and put them  
20 over the \$10,000 limit so a CTR was filed. It did not  
21 represent any change in the way Mrs. Hovind was doing things.  
22 It simply reflected another event transpired that caused the  
23 CTR to be filed. We also had situations where there were  
24 CTR's -- excuse me, there were cash withdrawals that happened  
25 before two o'clock and after two o'clock, which was the banking



1 day, that we feel were done and we feel we proved were done,  
2 two transactions, one before two o'clock, specifically to avoid  
3 a CTR, but the bank in their option -- they have an option to  
4 file a CTR and there were occasions when that happened and they  
5 did, in fact, file a CTR.

6 One of those occasions was on November 12th of 2002.  
7 The exhibit numbers -- it's in the summary at 218-STR. The  
8 exhibits that correspond with that, for the record, STR-152B  
9 and STR-104 and STR-103. And what those show is that there are  
10 two events, both cash withdrawals from Mrs. Hovind before and  
11 after two o'clock. The first one at \$7,200 at 11:45 a.m., a  
12 check payable to cash, signed by Jo Hovind. The second \$7,800  
13 on the same day at 3:04 p.m. payable to cash, signed by Jo  
14 Hovind.

15 So we do have events that cross that line, that date  
16 line -- which is what the point of this argument is -- that her  
17 criminal activity, we proved, and it is included in relevant  
18 conduct, we proved continued through past the date. It just  
19 wasn't charged. Which is one of the reasons, of course, why we  
20 did not argue that the level six was inappropriate. I still  
21 believe that because the burden was ours to prove that, to show  
22 the Court here at sentencing that the level-six reduction in  
23 the guidelines in the 2001's was not appropriate. We felt that  
24 we could not sustain that burden primarily because there is no  
25 case law. This is a unique issue.

1 But we can show that the circumstances in this case,  
2 the facts that we proved in this case are unique and lent  
3 themselves to a finding by this Court that the guidelines level  
4 does not take in the seriousness, does not account for the  
5 seriousness of the offense and under-represents the seriousness  
6 of the series of structuring transactions over the lengthy  
7 period of time, something around four years that Mrs. Hovind  
8 engaged in.

9 The argument that Mr. Barringer made in response to  
10 our memorandum with regard to the charged crimes, he makes the  
11 point correctly that the United States did not charge Mrs.  
12 Hovind with any tax crimes. That argument goes to the  
13 government's position that the -- that the underlying offense  
14 was, in fact, an illegal activity, and if that were the case,  
15 then the level six reduction -- the reduction to a level six  
16 would not be appropriate. We argued that it certainly is  
17 arguable -- although we did not feel for the reasons that I've  
18 already stated that we could argue it for sentencing purposes,  
19 but certainly the Court can consider it for a variance or for  
20 an upward departure.

21 But we do believe that the Court could find that the  
22 withdrawals were, in fact, for an illegal purpose. The fact  
23 that she was not charged with any tax crimes is irrelevant to  
24 that finding, primarily because, number one, the Court can  
25 consider motive. The Court can always consider motive with

1 regard to its conclusions in sentencing, in fashioning an  
2 appropriate sentence. The motive here is the fact that  
3 Mrs. Hovind was doing these transactions for the specific  
4 purpose of aiding her husband and aiding the company in failing  
5 to file employment taxes, failing to withhold, failing to pay  
6 over employment taxes as was charged in the first series of  
7 counts in the indictment.

8           So it does not matter that she was not, for purposes  
9 of this argument, that she was not charged with any tax case or  
10 tax counts because the Court can consider that that was, in  
11 fact, the motive. Is it illegal to pay employees in cash? No,  
12 absolutely not. It is illegal to do what CSE did with Jo  
13 Hovind's aiding with regard to their employees in not  
14 withholding income and FICA taxes, not matching, not paying  
15 over et cetera, as charged in Count 1 through 12. That is the  
16 motive for what she did and that's why we believe that it is  
17 arguable that the level six -- the reduction to a level six is  
18 not even appropriate in this case. We feel that that is a  
19 prime factor that the Court can consider in providing an  
20 above-the-guideline sentence with regard to Mrs. Hovind because  
21 clearly the circumstances in this case under-represent the  
22 seriousness of the series of crimes for which she was charged.

23           THE COURT: And how does the withdrawal of the cash  
24 aid or facilitate the failure to pay the taxes?

25           MS. HELDMYER: Your Honor, the Court may recall there

1 was quite a bit of evidence with regard to why cash was used at  
2 CSE. David Gibbs testified about a conversation that he had  
3 with Kent Hovind about the fact that cash wasn't traceable and  
4 that that's the reason why they would do all of their -- their  
5 accounting and all of their business in cash.

6 Mr. Gibbs said -- told Mr. Hovind, there is no  
7 difference legally when dealing with cash and dealing with  
8 checks. Mr. Hovind's motivation was there is no record, it's  
9 not traceable. So the cash itself -- the whole purpose for  
10 paying the employees in cash was not to -- to avoid creating a  
11 record of the employment -- the employment, the amount of money  
12 that was being paid, and the fact that they were not doing what  
13 they were required to do at CSE in paying over employment taxes  
14 and FICA and Social Security.

15 We also believe, Your Honor, that a variance is  
16 appropriate in this case as well for the reasons, of course,  
17 enumerated in the memorandum. But to summarize, we feel that a  
18 level six, a zero to six or a probationary sentence would send  
19 the wrong message to the community. There are a lot of -- as  
20 the Court knows, these cases have reverberated throughout this  
21 community.

22 The sentences that this Court has given in the past  
23 have had an impact on this community. And we feel that it has  
24 been a positive impact in terms of educating and enlightening  
25 individuals who may otherwise be prone not to pay their taxes

1 that that may not be a good idea. And we feel that a sentence  
2 of probation in this case might, might have a tendency to  
3 undermine that goal that is stated in Section 3553. It is  
4 certainly a factor that the Court can consider in terms of  
5 whether a variance from the guidelines -- the proposed  
6 guidelines range is appropriate.

7 Your Honor, as I've said before, the exhibits that  
8 were introduced into evidence very clearly show that Mrs.  
9 Hovind was engaging in this behavior, in activity, and the  
10 Court and the jury so found that she was engaging in  
11 structuring activity, specifically structuring these cash  
12 transactions to avoid the reporting requirements. And we  
13 showed during the course of the trial that checks were cashed  
14 by Mrs. Hovind all the way through September 16th, 2003 was the  
15 last one that we showed at trial. So clearly, we've got  
16 activity that goes on for almost four years with regard to  
17 cashing checks and using cash. And we believe that we were  
18 able to prove at trial that the whole reason for using cash at  
19 all at CSE was to ensure that their business was not traceable.

20 And we believe that we showed that Mrs. Hovind, under  
21 relevant conduct, participated in that behavior by the  
22 structuring. That was her motivation and that was the evidence  
23 at trial.

24 We also showed evidence at trial by way of memoranda  
25 that were introduced from CSE that was seized from CSE that

1 Mrs. Hovind's role at CSE was that of basically running the  
2 finances of the company. There were several memoranda that  
3 were introduced into evidence that show that she was in charge  
4 of the finances, that she paid the bills, so her position lent  
5 itself also to the knowledge that the reason why the cash was  
6 being withdrawn was to undermined the IRS's ability to discover  
7 and collect all manner of taxes.

8 I disagree with Mr. Barringer's assessment that those  
9 were all outside the scope of the charges and cannot be  
10 considered under *Booker*. First of all, we do not believe it  
11 was outside. As I said before, we believe that was part of the  
12 relevant conduct that we proved and the relevant conduct that  
13 the Court can and should take into consideration under the  
14 guidelines. And we also believe that it shows motive, which is  
15 also something the Court can take into consideration for  
16 purposes of sentencing.

17 And those are primarily the reasons, along with our  
18 arguments made in our sentencing memoranda that we have filed,  
19 that we believe that a guidelines sentence is not appropriate  
20 in this case.

21 THE COURT: All right. Thank you.

22 Mr. Barringer?

23 MR. BARRINGER: Thank you, Your Honor.

24 Obviously, I disagree with most of what Ms. Heldmyer  
25 has said. I believe the sentencing recommendations by

1 Ms. Lassiter accurately reflect what the law is and what the  
2 law should be with respect to this. The -- what Ms. Heldmyer  
3 phrased as a serendipitous benefit to Mrs. Hovind with respect  
4 to this issue that three months after, four months after the  
5 9500 or 9600 was taken out, the sentencing guidelines have  
6 changed and she benefits from that and she shouldn't benefit  
7 from that. Because of the process, as Ms. Heldmyer described  
8 it that went on, I don't believe is accurately a reflection of  
9 the facts.

10 The Court remembers quite clearly that when the  
11 criminal investigation began, it didn't involve Mrs. Hovind.  
12 It didn't involve cash transactions. It didn't involve  
13 employee withholding. The criminal investigation was income  
14 taxes with respect to Mr. Hovind; not Mrs. Hovind, Mr. Hovind.  
15 All the precursor work that we saw in the case, all the  
16 evidence that came in of a 404(b) nature prior to the  
17 activities involving the search warrant, was on income taxes  
18 and whether or not the income taxes should be paid by  
19 Mr. Hovind, whether or not he was earning income, those sorts  
20 of things. That's what the criminal investigation was all  
21 about. It had nothing to do with Mrs. Hovind at all.

22 In fact, when the search warrant came about, you'll  
23 recall from the testimony that Mrs. Hovind asked, am I subject  
24 to an investigation, in which Agent Schneider said, well, you  
25 might be. So for the first time you hear how the two questions

1 came about, Mrs. Hovind discovers that she was being  
2 investigated and that was April of 2004, 18 months after the  
3 2002 time period and certainly after all the cash transactions.  
4 Nothing that the IRS did with respect to Mr. Hovind would have  
5 been an indicator or triggering point with respect to Mrs.  
6 Hovind.

7 Secondly the sentencing guidelines, the zero-to-six  
8 range with respect to how this is structured, takes into  
9 account the fact that it's possible that a structuring can  
10 occur where the funds are legitimate coming in and legitimate  
11 going out, but you've done something you shouldn't have done in  
12 terms of how you're trying to structure your withdrawals or  
13 deposits of money. Everything is perfectly legal on either  
14 side, it's just that how you went about doing it with one or  
15 more deposits, or -- as the Court has phrased here, taking out  
16 less than what you needed with respect to this case. Those  
17 sorts of issues demonstrate that you can have committed a  
18 crime, as Mrs. Hovind was charged and found guilty of crimes in  
19 this case that we dealt with at length, but not have done  
20 anything illegal on either side of the activity.

21 And the result of which is that the Sentencing  
22 Commission understood that with respect to reducing it to the  
23 six-point level. That's exactly what we have here, the  
24 Sentencing Commission specifically understood that concept with  
25 respect to this. It is not as if this is something that never



1 could have been considered. The definition that reduced it to  
2 six points specifically fit what happened with respect to Mrs.  
3 Hovind.

4 And because of that, it doesn't support an argument  
5 that there should be a variance, nor does it support an  
6 argument that the reduction from 22 to six is inappropriate  
7 because the money coming in clearly was not from an illegal  
8 source. Nobody could ever get on the stand and nobody ever  
9 did. Ms. Heldmyer suggests that the money going out was for an  
10 illegal source, that being to pay employees or pay missionaries  
11 or pay, whatever phrase you want to use, in cash, to avoid  
12 withholding requirements. And I'll put it to the Court that  
13 doing it in the process that Mrs. Hovind did, taking out huge  
14 amounts of cash to do that process is more apt to trigger an  
15 IRS investigation than paying them with checks because --

16 THE COURT: How is that if the IRS doesn't get  
17 notified of the transaction?

18 MR. BARRINGER: Because if the IRS -- at the point in  
19 time that the IRS would ever take a look at the situation,  
20 which is more apt to cause them to say there may be a crime  
21 there, the cash or the checks? It's the cash that would cause  
22 them to look to see whether or not a crime had been committed,  
23 not -- if Mrs. Hovind had written 30 checks each week or 300 or  
24 400, whatever might be the amount, paid to each of the people  
25 working at CSE, the IRS would not, by looking at those checks,

1 have determined whether or not withholding had occurred.

2 Taking cash out simply would make it easier for IRS to make  
3 those determinations. Instead of making it more difficult, I  
4 truly believe it makes it more simple.

5 THE COURT: If the IRS gets notified.

6 MR. BARRINGER: If the IRS isn't notified, if it's  
7 just straight nobody has any idea, then it's equal. There is  
8 no difference between checks or cash with respect to whether  
9 the IRS would know or not know. But with respect to what the  
10 bank tells the IRS, it's more apt to occur with the cash being  
11 taken out than the checks. All of the inferences that you draw  
12 from this process is if you take cash out, the IRS is more  
13 likely to find out about it than if you write the checks. So I  
14 disagree and find completely refutable the argument that taking  
15 the cash out was specifically designed to work through this  
16 process of causing employees not to have withholding taken out  
17 of their pay to avoid doing that with the IRS. I do not  
18 believe that can be an inference drawn from that fact. I don't  
19 believe that there is a reasonable inference that can be drawn  
20 from that fact.

21 Having said that, we're then stuck with the situation  
22 that, yes, Mrs. Hovind wrote these checks for a number of  
23 years. Yes, the process changed, not because of what the IRS  
24 was doing with respect to her, but because of other factors  
25 that were going on within CSE. And all of the activities that

1 the IRS found objectionable to, by the time they got around to  
2 charging Mrs. Hovind, had long since ended with respect to  
3 taking cash out with respect to employees being paid cash  
4 exclusively in the process. CSE had changed that process.

5 So the issues dealing with variables or deviations  
6 from the sentencing guidelines all changed before that  
7 occurred. Nothing -- as we get to the point of the process  
8 where the indictment occurs, where the charges are brought,  
9 nothing demonstrates that there should be a variance as to Mrs.  
10 Hovind, because she fit exactly where the zero to six was at.

11 Ms. Heldmyer referenced to the fact that -- I'll  
12 continue along these lines, that Mr. Gibbs had said that cash  
13 is not readable or not traceable. I don't recall that  
14 conversation. That may have been part of the evidence, but  
15 remember again that Mr. Gibbs didn't talk to Mrs. Hovind.  
16 Mr. Gibbs talked only to Mr. Hovind. From his testimony,  
17 you'll recall that Mrs. Hovind was playing -- was fulfilling  
18 the role of the housewife and somebody who invited people into  
19 her home. She was taking care of people's needs around the  
20 area, not involved in the conversation whatsoever. Much of  
21 what the government wants to heap upon Mrs. Hovind now is as a  
22 result of what Mr. Hovind was doing and saying.

23 Even the government acknowledges that it's clear that  
24 Mrs. Hovind did not agree with Mr. Hovind's position on the tax  
25 issues. And it's the tax issues that the government wants to

1 use to try to boot strap this into going above the zero to six  
2 sentencing guidelines.

3 All of the things built into this process, everything  
4 that exist here shows Mrs. Hovind was fulfilling the role of  
5 paying the bills and running the house. Paying the bills does  
6 not establish some sort of tax crime being committed. That  
7 wasn't the process she was involved in at all. She didn't do  
8 the calculations of what was there, she paid bills, period.  
9 She took the money out of the bank and brought it back to CSE.  
10 She was the housewife. She did not believe in her husband's  
11 positions as far as tax laws are concerned, did not believe her  
12 husband's positions as far as what he was trying to do and the  
13 result is that there isn't a reasonable basis for a variance  
14 outside of where the sentencing guidelines are because the  
15 Sentencing Guidelines Commission took into account exactly Mrs.  
16 Hovind's situation in writing the zero-to-six position.

17 THE COURT: Mr. Barringer, where is the evidence that  
18 Mrs. Hovind didn't agree with Mr. Hovind's tax views?

19 MR. BARRINGER: There was testimony from people during  
20 the trial that -- and I believe even Ms. Heldmyer submitted in  
21 her response that there was documentation to show that she  
22 disagreed with what her husband had said with respect to these  
23 tax issues. Questions were posed to witnesses, Mr. Hovind  
24 believed this, what about Mrs. Hovind. She either didn't know  
25 about it or didn't agree with it, I believe clearly came out in

1 the trial.

2 THE COURT: Would you also agree that there was  
3 evidence that she did espouse the same views?

4 MR. BARRINGER: I will agree that documents were sent  
5 to the IRS with her signatures over them. I do not agree that  
6 that demonstrates that she had knowledge and agreement with  
7 those positions. I don't know that that came out. And I do  
8 believe there is a difference there -- somebody who simply  
9 signs their name to a document may not know what that document  
10 says.

11 A classic example is when a notary subscribes their  
12 name that somebody signed a document. The notary knows the  
13 person is there signing it, but don't necessarily know what the  
14 contents of the letters are. And oftentimes we see that in tax  
15 cases where notaries have subscribed their names to documents  
16 with the idea of making that somehow more important without any  
17 idea what the document says and say that on the stand. Mrs.  
18 Hovind doesn't necessarily know what the documents say, even if  
19 she puts her name to the documents.

20 THE COURT: We didn't hear from Mrs. Hovind about that  
21 at the trial.

22 MR. BARRINGER: That's true. But we also didn't hear  
23 anybody say that Mrs. Hovind agreed with that position. Nobody  
24 took the stand and made that testimony. So all we have are  
25 simply documents that are in the file without testimony behind

1 them.

2 THE COURT: All right. I understand your argument.

3 MR. BARRINGER: Having said that -- and obviously I  
4 have an objection to the government filing the sentencing  
5 memorandum when it did, I believe that's out of time, but the  
6 Court, without having done so, could have considered the issues  
7 equally.

8 I don't believe there is a basis for doing the  
9 variance outside of zero to six. I don't believe there is a  
10 reasonable basis outside of zero to six. And under the  
11 circumstances, I believe probation is, in fact, the appropriate  
12 sentence.

13 Finally, Mrs. Heldmyer spoke of what other cases have  
14 done in the area and sentences that apply to the other cases.  
15 I don't know that there are other cases that were on structure.  
16 There may be other tax cases in the area and the Court may have  
17 made rulings on that. But this issue dealing with structuring,  
18 I think is -- down here at least -- is something that hasn't  
19 been here recently.

20 Mrs. Hovind fits specifically what the Sentencing  
21 Guideline Commission was, as I've said several times, six  
22 points, zero-to-six sentence, in prison or probation. I  
23 believe that probation is the appropriate sentence.

24 THE COURT: Thank you.

25 Ms. Heldmyer?

1 MS. HELDMYER: Just a couple of responses, Your Honor.

2 First of all, Mr. Barringer said that the  
3 investigation didn't involve employment tax, that Mrs. Hovind  
4 apparently -- that CSE was under the impression that it was  
5 strictly an income tax case. I don't know what the proof is of  
6 that. Even if that were the case, Mrs. Hovind had not filed  
7 income tax returns either. She could clearly have assumed that  
8 that investigation encompassed her because there were no income  
9 tax returns from her or from the business with which she was  
10 associated.

11 With regard to the using of money, cash money to pay,  
12 making it easier to trigger an IRS investigation, I couldn't  
13 disagree with that more. As a matter of fact, as we stand here  
14 today, we do not know and we'll never know how much money was  
15 paid to these employees, how much money came in and out of this  
16 ministry, how much money should have been withheld. They are  
17 all estimates based on information we were able to seize --  
18 other information we were able to seize during the search  
19 warrant.

20 As this Court knows it would have been imminently  
21 easier to calculate that if we had had record of the payments  
22 by way of checks, if we had been able to go into the bank  
23 accounts and pull the checks to see that Brian Popp, for  
24 example, was paid this amount on a weekly basis, that would  
25 have been very simple for the IRS to calculate those losses.

1 We can't do that. The IRS can't do that. The Court can't do  
2 that today because and only because cash was used instead of  
3 checks. Would it have made it easier, would it have triggered  
4 IRS taking a look a little harder? I don't know the answer to  
5 that. Just the fact that they were dealing in so much cash  
6 would make the IRS sit up and take notice. But certainly in  
7 the long run, it made it next to impossible for the IRS to  
8 figure out and to stand before this Court today and tell the  
9 Court exactly what the loss to the government is and that was  
10 specifically because of the use of cash by Jo Hovind.

11 I also disagree with Mr. Barringer in saying that  
12 there was evidence that Mrs. Hovind did not agree with her  
13 husband's position. I believe that the evidence is -- and  
14 fairly clear -- and I believe we played a tape to this effect  
15 at Mr. Kent Hovind's sentencing -- but in any event, there were  
16 numerous filings, numerous things that Mrs. Hovind did that,  
17 that Mrs. Hovind signed where, for example, signature cards at  
18 banks, that U.C.C. -- that classic tax protester U.C.C. stamp  
19 on some of those documents. She did something like revoked her  
20 citizenship in the property records, that sort of thing, all  
21 bearing her signature. So there was plenty of evidence that  
22 she, in fact, was a tax protester as her husband was. The only  
23 evidence to the contrary with regard to what she actually  
24 believed, not that she did not believe in the tax protester  
25 issues, but that she believed that her husband, in promoting



1 these and in continuing to promote these kind of ideas, that he  
2 was hurting the ministry. Those are two entirely different  
3 things. That he was right in terms of the tax issues, but his  
4 promoting it and his fighting the IRS was hurting the ministry,  
5 hurting his family about which he was correct and hurting  
6 himself. And in the long run, of course, she was correct on  
7 that, but it had nothing to do, from my memory, as to whether  
8 or not she believed that the tax system was legal and all of  
9 the other tax protester ideas.

10 So we disagree with that. And of course, again, we  
11 disagree that the -- a probation sentence would be appropriate  
12 in this case.

13 That's all I have, Your Honor. Thank you very much.

14 THE COURT: All right. Thank you.

15 Mr. Barringer, do you have anyone who wishes to speak  
16 today?

17 MR. BARRINGER: There are a few people who wish to  
18 speak, including Mrs. Hovind.

19 Is there an order the Court wishes for?

20 THE COURT: I prefer to hear from Mrs. Hovind last.  
21 If you would call those that wish to speak to the Court.

22 Let me, before we start, note that I have received  
23 numerous letters from family and friends of Mrs. Hovind's and  
24 I've read each one of those letters before the hearing today.

25 All right. Your name, please.

1 THE WITNESS: Good morning, my name is Mary Smith.

2 THE COURT: Good morning.

3 THE WITNESS: Jo and I are the best of friends and  
4 because of that I'm compelled to speak on her behalf today.  
5 There is no way I could adequately tell you what an incredibly  
6 wonderful person Jo is.

7 To know her is to love her and respect her and hold  
8 her in the highest esteem. It takes very little time spent  
9 with her to discern the type of person she is. Compassionate,  
10 honorable, unselfish, loving, nurturing, and encouraging to  
11 everyone around her.

12 She's a tower of strength and wisdom for her family  
13 and children, a patient and kind grandmother. She's a  
14 phenomenal musician and teacher and a trustworthy friend.

15 She demonstrates integrity in any circumstance and  
16 she's never pretentious. She's very real and genuine.

17 To imprison this person would be a tragedy. To remove  
18 her light and her presence from her friends and her family, her  
19 students, her fellow musicians in the community and her church  
20 members would be devastating to countless people.

21 Additionally, she has a severe back problem stemming  
22 from a serious injury and she's in pain constantly. I believe  
23 that would be greatly exacerbated by prison life and  
24 accommodations there. Her health could be damaged.

25 Jo has already suffered so much since this all began.

1 The stresses of the emotional turmoil, the uncertainty of what  
2 lies ahead, and the inability to be involved in the music she  
3 loves so much, the looming prospect of prison life. Those are  
4 clearly visible in her countenance.

5 Please do not prolong that suffering. If punishment  
6 must be exacted, surely there are other alternatives to  
7 incarceration for someone who is such an asset to her friends,  
8 family, and the community. We ask that you please give  
9 consideration to those alternatives before passing sentence and  
10 we'd ask you for your mercy and your compassion in her case.

11 THE COURT: Thank you.

12 Anyone else?

13 THE WITNESS: My name is Theresa Schneider. And, Your  
14 Honor, first I'd like to thank you for allowing me to come up  
15 here and speak on behalf of Jo.

16 THE COURT: Yes, ma'am.

17 THE WITNESS: I first met Jo in 1997 when my family  
18 started attending Marcus Pointe Baptist Church. Through the  
19 ten plus years in knowing her, she's been a wonderful example  
20 of how to be a wife, mother, grandmother, and mostly, a lady.

21 Since 2000 she has been my daughter's mother-in-law.  
22 You hear horrible stories about mothers-in-law, but Jo has been  
23 wonderful to Danielle. And if I had to pick her myself, I  
24 could not have picked a better person for my daughter to be  
25 with.

1           We share a very special bond. We share grandchildren.  
2 We're both blessed to share XXXXXX and XXXXXXX. Family means  
3 everything to Jo and she makes everyone feel like she's a part  
4 of her family.

5           She has a wonderful love for our Lord and Savior Jesus  
6 Christ, and her humble servant attitude shows it by playing the  
7 piano, by playing games with children or friends, or just by  
8 cooking a meal for you. She draws you into her.

9           Jo has been the most compassionate, loving, honest,  
10 and most humble lady that I have ever known. Even through all  
11 the valleys and trials she's gone through, when she hears of  
12 someone hurt, she jumps right in to help in any way possible.  
13 I truly believe that she would give you the shirt off her back  
14 if that was truly what you really needed.

15           In Proverbs it talks about what it means to be a wife  
16 and it says that when she speaks, her words are wise, and she  
17 gives instructions with kindness. She carefully watches  
18 everything in her household and suffers nothing from laziness.  
19 Her children stand and bless her, her husband praises her.  
20 There are more virtuous -- there are many virtuous and capable  
21 women in the world, but you surpass them all. Time is  
22 deceptive and beauty does not last, but a woman who fears the  
23 Lord will be greatly praised.

24           So Judge Rodgers, I'm pleading for mercy from you,  
25 this Court, for Jo. I know putting her in prison would be so

1 detrimental, not only to her, but her children, grandchildren,  
2 and so many others that call her friend. I beg for probation  
3 for Jo and not a prison sentence. I beg for mercy not only for  
4 Jo, but for Stephanie, XXXXXX, XXXXX, XXXXXXXX, and XXXXXX, the  
5 children are blessed to call her Granny Jo. They already have  
6 their Pop Pop in prison. I beg of you, don't put Jo there too.

7 Thank you.

8 THE COURT: All right. Thank you.

9 THE WITNESS: Good morning, Your Honor.

10 THE COURT: Good morning.

11 THE WITNESS: My name is Ladonia Wise and I'm honored  
12 to speak on behalf of my good friend, Jo Hovind. Since I have  
13 known her these ten years, she has been an inspiration to me.  
14 She is a woman with a spirit of love, generosity, gentleness,  
15 kindness, and I cannot see any useful service to society to  
16 incarcerate such a lady.

17 I agree with everything that the two previous speakers  
18 said, so I won't belabor it or drag it out. I just beg for  
19 mercy and compassion for one of the most wonderful women I've  
20 ever known.

21 Thank you.

22 THE COURT: Thank you.

23 THE WITNESS: Good morning, Your Honor, my name is  
24 Eric Hovind.

25 First of all, I'd like to say that I realize that

1 justice has to be blind. I picture that statute of the lady  
2 that is blindfolded and so I don't know how much of this  
3 testimony you can take into consideration. As I spoke to you  
4 here at my dad's sentencing, I told you it was an honor for me  
5 to speak on behalf of my dad. It's ten times that honor to  
6 speak on behalf of my mom and I want you to realize this.

7 I'm looking into your face and I realize you gave my  
8 dad ten years in prison and that's okay. I realize that this  
9 Court considered my dad and what he did worse than a rapist and  
10 that's okay. I also understand that the heart of the king, as  
11 Daniel 4 says, is in God's hand. If the heart of king is in  
12 God's hand, then can I assure you the heart of judges and the  
13 heart of everybody else in here is in God's hand and God's will  
14 is going to be done.

15 I don't think there is any question in anybody's mind  
16 here that the proceedings that took place weren't really meant  
17 for Jo Hovind. They were meant for Kent Hovind. Ms. Michelle  
18 said we believe a strong message needs to be sent. Well, after  
19 Ward Dean, Kent Hovind, and Sport Suttles, there is no question  
20 that message was sent loud and clear. And as was said by Mr.  
21 Barringer, this isn't a tax case. No message like that needs  
22 to be sent.

23 I look at a judge as the one who must do justice and  
24 as we look at this case I can't help but think what is real  
25 justice for Jo Hovind, a submissive wife, a loving mother,

1 somebody who did what she was told to do. What would justice  
2 be for that?

3 We've all heard of injustices in the justice  
4 department. I beg of you to today give my mom simply  
5 probation.

6 Ms. Heldmyer said that the illegal activity has  
7 continued. I want to assure you that myself, nor my mom, Jo  
8 Hovind, would like to engage in any illegal activity. I think  
9 the record shows that even after everything had taken place, it  
10 was my mom and I's decision, once we realized that not  
11 withholding from employees was an issue in 2006, last year,  
12 once the indictment came down, we immediately began to use an  
13 employee leasing agency for CSE.

14 Our hearts are not to deceive. Our hearts are not to  
15 manipulate the system. Our hearts are simply to do right.

16 My mom for -- as Ms. Heldmyer said, she said this  
17 activity of cash withdrawals went on for four years. Much  
18 longer than that were my mom's wise words to my dad to not go  
19 down the road he was going down. I believe, as I read the  
20 memorandum to the Court to try to increase the sentencing by  
21 the government, right in the middle there, there was one little  
22 sentence that basically said it. It said something to the  
23 affect that we realize this wasn't Jo Hovind, this was Kent  
24 Hovind; however, we still want to you vary and go above and  
25 beyond what the guideline says.

1 I believe everybody in here knows this wasn't about Jo  
2 Hovind. This is a loving mom who was caught in the middle of  
3 this. And I pray that justice would be done and that she would  
4 be exonerated with probation only.

5 Thank you very much, Your Honor.

6 THE COURT: All right. Thank you.

7 Anyone else?

8 THE WITNESS: Can I read something to you?

9 THE COURT: You can as long --

10 THE WITNESS: It won't be long. It will be quick.

11 THE COURT: Yes. Who are you, sir?

12 THE WITNESS: Your Honor, my name is John Gusti, I've  
13 been with CSE for quite some time and I, too, testified at  
14 Dr. Hovind's sentencing, if you remember -- well, I don't know.  
15 But again, good morning and thank you for allowing me to speak.  
16 I'll be brief.

17 I hear a lot of talk about rules and regulations and  
18 all this other stuff about state of mind, if I may just give  
19 you a brief synopsis of a Christian woman's mind. Her stance  
20 in this. We hear of Ms. Heldmyer saying it's deliberate, it's  
21 deliberate, it's deliberate. That may be true, may not be  
22 true, only God knows the heart of an individual. That's what  
23 the Bible says.

24 I'd like to read a quick passage out of the Bible and  
25 I'll be done. It's in Ephesians Chapter 5. It's basically



1 among most Christians we would understand this as the love  
2 chapter between husbands and/or wives. And it states giving  
3 thanks starting at Chapter 5:20. "Giving thanks always for all  
4 things unto God and the Father in the name of the Lord Jesus  
5 Christ, submitting yourselves one to another in the fear of  
6 God."

7 In Chapter 5:22, any Christian woman would understand  
8 this right off the bat. "Wives, submit yourself unto your  
9 husbands as unto the Lord. For the husband, is the head of the  
10 wife, even as Christ is the head of the church and he is the  
11 savior of the whole body."

12 That is in the very foundation of that woman's  
13 mindset. I can assure you that she has submitted to her  
14 husband because she stands on the word of God, and she would do  
15 what she would need to do for her husband. I don't know if she  
16 knew if she was breaking the law or not. I don't believe she  
17 had the serious intent to break any law. I know that woman and  
18 she's a gentle soul, but I do know that she is submitted to the  
19 word of God above all things, and it says submit yourself to  
20 your husband and she did that. But I don't think she did it  
21 deliberately to break the law. She is obeying God's command.

22 So I just wanted to give a different mindset of what a  
23 Christian woman, that we understand, maybe some of you do not  
24 understand that, that commitment, dedication to one another,  
25 submission to one another, I don't know, but I understand it,

1 and my wife understands it as well, and so does that woman.

2 So I beg the Court, again, take this into  
3 consideration and have mercy on her and give her probation  
4 because I do not feel that prison would serve any justice or  
5 good for anyone involved.

6 Thank you.

7 THE COURT: Thank you.

8 Anyone else in the audience?

9 All right then, Mrs. Hovind.

10 THE DEFENDANT: I, too, thank you, Your Honor, for an  
11 opportunity to address you.

12 I begin with a simple story. One day a man left home  
13 running and turned left, and ran some more and turned left and  
14 ran some more and finally returned home. When he was running  
15 home, he, again, saw the two masked men were still waiting for  
16 him. Who were those two masked men and why did he leave home  
17 running?

18 I want to repeat the story and hold up this simple  
19 picture. The baseball diamond. A man left home running and  
20 turn left and ran some more and turned left and ran some more  
21 and finally turned left again and returned back home. As he  
22 was running, he could see that two masked men were still  
23 waiting for him. Who were the two masked men and why did the  
24 man leave home running?

25 When I, at least, heard that story for the first time

1 without the picture, I immediately thought the man's house was  
2 being broken into and then when I saw this picture, it was,  
3 well, no, he was hitting a home run at a baseball game. And  
4 the one picture totally changed my view of that story. If you  
5 begin with a false assumption as in this story, I did, I began  
6 thinking, oh, my goodness there's been a robbery here. You  
7 come to very different conclusions about the players and the  
8 scenario that happened.

9 I honestly believe that in my case there were many  
10 false assumptions and a prejudice about who I was and what  
11 motives I had before I ever entered this courtroom.  
12 Unfortunately, I don't possess one simple picture to hold up  
13 for you to alter your mind about me and what's been said about  
14 me. Instead, in a very brief moment of time, I will try to  
15 convey to you just three things. Briefly, who I really am and  
16 what my motives were, and number two, to remind you that the  
17 change in behavior that you want to occur as a result of this  
18 already occurred, and then finally, to demonstrate to you that  
19 I have cooperated and I will continue to fully cooperate with  
20 the government as a law abiding citizen.

21 So first of all, to bring some light to my motive for  
22 you. I wish I could explain many things to you, my side of  
23 many things that were said at our trial, but I know that  
24 wouldn't be profitable because of time constraints and because  
25 the burden today is not to decide guilt. That's already been

1 determined. It's only to decide my punishment. But I just ask  
2 your patience while I go through just a few examples that I  
3 hope will help you see some of this from a different  
4 perspective.

5 I remember a check being put on the screen that had  
6 been made out to New World Landing. It was dated in the month  
7 of January. There is nothing on the check in the memo line and  
8 I'm sure in the check register there was, but there is nothing  
9 written on that check, and when the witness, Agent Schneider,  
10 asked what the check was for, he replied it was for their  
11 daughter's wedding reception. Your Honor, that check was  
12 written for our annual CSE staff banquet. Marlissa was not  
13 married in January and her wedding reception was a simple  
14 reception in the gym behind our church.

15 Another example of this type of misjudgement was when  
16 a memo was put on the screen during the trial that said it's  
17 become too dangerous to continue getting cash. I realize now,  
18 sometimes when things like this would come up on the screen, I  
19 was like, oh, yay, we're going to get to the truth, and then  
20 the exact opposite would happen. It was falsely assumed then  
21 that the danger Kent had referred to in making that  
22 announcement to the staff was the IRS. But nothing of the sort  
23 was true. I had gone to the bank and after making my  
24 transaction, the teller said, now, Mrs. Hovind, we would like  
25 you to stand here at the counter for a moment. And I said

1 what's wrong and she said in just a moment there will be a  
2 security guard coming around and we want him to escort you to  
3 your vehicle. And I asked why, and she said well, we're always  
4 watching everybody in the bank, and someone has been watching  
5 you, and we just want to make sure you get safely to your  
6 vehicle.

7 Well, I was terrified, my legs were shaking so bad I  
8 could hardly get in my car. And I tried to forget about that,  
9 but about two weeks -- or I'm not sure of the exact time frame  
10 because it was quite some time back, but it happened again  
11 where the teller stopped me and said, wait, Mrs. Hovind, we're  
12 going to send a security guard with you to your car.

13 At that point, I just told Kent, I don't know if  
14 Pensacola is getting more wicked, but I'm afraid to go to the  
15 bank and walk out with this cash. I want you to talk to the  
16 directors about changing. He did and that request was granted  
17 and over the period of the next several months, we gradually  
18 changed to paying everyone in check where I didn't have to do  
19 that. The fear was -- had nothing to do with the IRS. My fear  
20 was of being mugged with this bank bag under my arm.

21 Further misunderstandings continued to occur when all  
22 these just speculations were made about if a transaction was  
23 close together. There were differing reasons sometimes, but  
24 one reason was when I would suddenly learn that I needed to go  
25 out of town. My father lived in Arkansas and died a slow,

1 terrible death of lung cancer and he spent most of the last  
2 five years of his life in a hospital bed, and several times  
3 during that time I would get the call if you want to see daddy  
4 alive again, you need to get here quickly. The amount we  
5 needed to give everybody that was serving with us and the petty  
6 cash and everything was really averaging at that time right in  
7 the \$9,000 range, and when there were withdrawals that suddenly  
8 came close together was often because I learned that I was  
9 going to have to go out of town and I was trying to do  
10 everything I could ahead to make it easier for everybody else  
11 that labored there at CSE. I had no intention of evading  
12 anything with the IRS. I was trying to just be a conscientious  
13 servant who didn't just try to bluff and push other stuff on  
14 other people.

15 I realize that you said at the end of our trial that  
16 whether I knew about these bank secrecy laws or that writing  
17 checks in the \$9,000 range was illegal or not didn't matter in  
18 deciding guilt. That's hard for me to grasp because my  
19 charge -- I asked my attorney again exactly what I'm charged  
20 with. You are charged with evading the IRS reporting  
21 requirements. I don't understand how I could purposefully  
22 evade something that I didn't even know about.

23 I understand it has nothing to do with guilt, but I  
24 just hope at this time of sentencing, you really will take into  
25 consideration that I honestly, even with the testimony John

1 gave, I do believe in being a submissive wife, but not if it  
2 would involve anything illegal. I would never ever knowingly  
3 do anything illegal. That's just not who I am. I was the  
4 child in school that if the entire class was spitting spit  
5 wads, I was the one who wouldn't. I just -- that's not my  
6 character. It's not my motive to hide anything.

7 In fact, my limited understanding, I really did not  
8 have a leadership role in CSE, but my limited understanding was  
9 that the IRS had full access to the entire bank account, not  
10 just these certain checks or anything. I remember one time  
11 when I wrote a check to cash, I had a brand new teller. You  
12 know, when you've gone to the same bank the same branch every  
13 week for ten years, I knew everybody in the bank. They knew  
14 me, but it was a different teller and she asked me to fill out  
15 a paper. Now, I don't know if this is the type of paper that  
16 was involved with these CTR reports or not, I know it asks like  
17 my name and address and I don't know, I think probably Social  
18 Security number, ID-type questions, and I don't know if that  
19 had anything to do with the CTR report or not, but based on  
20 what I've learned in this case, it seems like if I was trying  
21 to hide something, I would have said, well, I'm not going to  
22 fill out that paper, but I just -- I filled it out. I filled  
23 out all the questions on it and I made the comment, I think, to  
24 the lady that day, is this a new procedure because I've never  
25 had to do this, and she said well, it's just important if you

1 want to make the transaction in. So I filled it out. I was  
2 never asked again to do that, but it just seems like it's  
3 another indication that if my real heart's desire was that I  
4 was getting away with something, I wouldn't have willingly  
5 filled out that paperwork. I would have said, well, I've got  
6 to think about this or something, but I filled out everything  
7 they asked me to.

8 I've learned that this whole thing about structuring  
9 laws were really written, as I understand it, to track illegal  
10 use of money, a thing called money laundering and drug  
11 trafficking money. I know that you already know this, but I  
12 want to remind you that the money in this account, this  
13 ministry account was never illegally put there. And when it  
14 came out, it wasn't illegally spent. It was really, honestly  
15 used to pay the people that served beside us at the ministry  
16 and to pay ministry bills.

17 I -- that doesn't nearly encompass the many things I  
18 wish I could give my side on, but I've been explained that's  
19 not the purpose of today, but I gave these few examples to you  
20 only to try to let you see there really is another side to the  
21 theories proposed by the prosecution.

22 The second thing I wanted to relay to you was to  
23 reiterate the change in behavior. If the roles were reversed  
24 today and I had to be sitting in your shoes, I think I would  
25 look at someone and say, all right, what kind of sentence do I



1 need to impose today to make sure this does not happen again.  
2 I don't want to waste my court time on this same individual  
3 next week or next month or ever. It was presented at trial  
4 that we did begin giving people checks instead of cash, and I  
5 didn't need to continue getting the large amounts out. So the  
6 change in behavior that you want to occur, this is one case  
7 where you don't have to wonder, well, if I give her this, will  
8 she stop doing it? You don't have to wonder, the change has  
9 already occurred. It really occurred four years ago, way  
10 beyond any scope of me having any knowledge that this could be  
11 illegal.

12           And finally, I want to assure you of my full  
13 cooperation. I am pleading for your mercy. I honestly did not  
14 know any of my actions could be construed as illegal. I have  
15 no desire to break the law or to stand against this government.  
16 It's a privilege to live in America. I want to fully cooperate  
17 with anything that's shown to me that I need to do.

18           Through this experience, I've come to a much greater  
19 respect and appreciation for the role of a judge and the  
20 responsibilities that you carry. I know I could never do your  
21 job, Your Honor. I couldn't fulfill the obligations and bear  
22 the burdens that you have to hear and bear. And from this new  
23 perspective, I've prayed for you nearly every night. I've  
24 preyed earnestly to God to give you wisdom, to help you see  
25 truth, not just in my case, but in the many cases you have to

1 rule on every week.

2 For myself, I've asked God to take this situation out  
3 of my life. These circumstances are extremely difficult for me  
4 to accept. It's humiliating and embarrassing to stand in this  
5 courtroom condemned, and I never want to stand for anything  
6 illegal. I don't even want to be going through this; however,  
7 I do embrace the fact that whatever you order for me today,  
8 before it comes across your desk, will it first come across my  
9 Heavenly Father's desk for his approval for my good and his  
10 glory.

11 Being in this courtroom has been a very sobering  
12 experience for me. It's made me more fully aware that one day  
13 we all will stand before the final judge from whose judgement  
14 there will be no appeal. As I stand before that judge, my  
15 earnest desire will be to hear the highest honor one could  
16 hear, well done, thou good and faithful servant.

17 I'm sorry I have to stand before you today condemned,  
18 Your Honor. I do, though, and I ask for your mercy.

19 THE COURT: Mrs. Hovind, you did not take the stand  
20 and didn't testify during the trial and you're not required to  
21 now, but based on your comments just now, I'd like to give you  
22 the opportunity if you wish to offer an explanation for the  
23 number of transactions and the amount of those transactions.  
24 And you're not required to, but based on your comments to me, I  
25 give you the opportunity if you would like.

1 THE DEFENDANT: It really honestly was, if you look at  
2 the entire check record from the beginning of the account,  
3 we -- it was, you know, I don't remember any exact numbers, I'm  
4 going to pull these out of the air, but it would probably  
5 average 1500 to 2000 a week I was taking out to give everyone.  
6 We -- I know they don't like this term, but we really are a  
7 ministry that operates on love offerings, and it wasn't always  
8 a guaranteed amount that we could give everybody because it  
9 depended on what was given to the ministry and -- but I could  
10 tell you there was a general average and it continued to grow  
11 miraculously. I never dreamed the ministry would grow this  
12 big.

13 THE COURT: What I was really referring to was the  
14 amount of the transactions, not the total weekly withdrawals,  
15 but the amount of the individual transactions.

16 THE DEFENDANT: It really was averaging about 9,000 to  
17 9500 a week that we were needing, and when I did them close  
18 together, it was merely -- I would learn something else, well,  
19 I'm going to be gone or so and so is going to be gone that's a  
20 signor and I just tried to make it when I would find those  
21 things out, where everything would be in place without my  
22 presence there. It honestly had nothing to do with knowing  
23 that there was this rule that if I would have written it over,  
24 I mean, my -- once I knew that, in fact, we had a bill just the  
25 other day that was 9,900-some dollars and I know it wasn't a

1 cash transaction, but I wrote the check for \$10,001. There  
2 will always be a fear in me now of writing any check in that  
3 amount. I don't ever want to be accused of hiding anything.

4 THE COURT: Thank you.

5 THE DEFENDANT: Do I sit down?

6 THE COURT: Yes.

7 Ms. Heldmyer, does the government have anything else?

8 MS. HELDMYER: Your Honor, unfortunately what Mrs.  
9 Hovind says with regard to these transactions is just contrary  
10 to the evidence that was presented at trial. As the Court may  
11 recall, there was a total of about one and a half million  
12 dollars that was taken out in cash over this period of time.  
13 The 9600 -- the 95 and \$9600 figures are much more irregular  
14 and cannot be explained by needing some amount of money to  
15 travel to Arkansas to visit her father. What that would mean  
16 is she would need amounts in the tens of thousands of dollars  
17 to get to Arkansas and visit her father over a period of time.  
18 I do not believe that is the proper explanation for the amount  
19 of money that was taken out.

20 You'll also recall at trial that we were able to match  
21 up numbers and show the amount of money that was being taken  
22 out was roughly equal to their payroll needs during the period  
23 of time the money was taken out, and I do not believe there was  
24 any other explanation for the amounts, the consistent \$9500 or  
25 \$9600 that were taken out. For example, just in June, 2001

1 alone: June 1, \$9500; June 7, \$9500; June 11, \$9500; June 13,  
2 \$9500; June 19, \$9500; June 29, \$9500.

3 Into July, there were four more in July and they vary  
4 in that regard. They are irregular and they vary like that and  
5 they vary correspondingly with the payroll needs of the  
6 ministry. And I would point out, then, in 2002, after the  
7 beginning of the investigation -- as I said before and I have  
8 the numbers -- that the amount dropped from 95 or \$9600 down to  
9 a smaller amount, but the frequency increased in September of  
10 2002, after the advent of the criminal investigation, there was  
11 a \$9600 check on September 3, and then September 10, \$5400;  
12 September 13, \$4900; September 17, \$5900; September 20, \$3900;  
13 September 24, \$5600; September 27, \$4200.

14 Then into November -- excuse me October, seven more  
15 transactions, 5800, 6200, 6700, 6800, et cetera, et cetera. So  
16 I do not believe that the evidence that was shown at trial was  
17 explained by Mrs. Hovind's statement here today, and I do not  
18 believe she's being truthful with the Court, and I would ask  
19 the Court to take that into consideration.

20 The other issue, she indicated that she needed money  
21 for petty cash and they kept around \$9,000 in petty cash. I  
22 would remind the Court that the testimony at trial was when the  
23 search warrant was served the search warrant team found \$42,000  
24 in cash at CSE, not 9,000. So I do not believe that to be true  
25 either.

1 THE COURT: All right.

2 I'm going to take a brief recess and come back and  
3 announce sentence momentarily.

4 (Recess.)

5 THE COURT: I'm not sure if this was done during the  
6 first part of the morning. Forgive me if I'm repeating  
7 something that we've already been over, but there was a  
8 modification to the presentence investigation report, paragraph  
9 35 was modified, it's page 15. It is my understanding that  
10 Ms. Lassiter provided you both with a revised page number 15  
11 that just reflected merely a citation reference or a change to  
12 a reference in the paragraph 35.

13 MS. HELDMYER: That is correct, Your Honor.

14 MR. BARRINGER: Yes, Your Honor.

15 THE COURT: Thank you. All right.

16 It appears -- it's obvious we have a full courtroom  
17 this morning. Because I know that most of you or very few of  
18 you were actually present for the trial in this case, I'd like  
19 to explain a few things to you. Perhaps you only know what  
20 you've read in the newspaper and I'd like to make a few things  
21 clear before I proceed to pronounce sentence in this case.

22 First, neither Mr. nor Mrs. Hovind was charged with  
23 tax evasion. Mr. Hovind, not Mrs. Hovind, was charged and  
24 convicted with failing to collect, account for, and pay over  
25 employment taxes on those employees who were working for CSE.

1 Mr. Hovind, not Mrs. Hovind, was also charged and convicted  
2 with obstructing the lawful functions of the Internal Revenue  
3 Service.

4 Mrs. Hovind, along with Mr. Hovind, was charged with  
5 what is known under the law as "structuring" or "unlawful  
6 structuring." And this is where someone conducts a cash  
7 transaction with a financial institution and structures that  
8 transaction in such a way as to avoid the bank or the financial  
9 institution having to file something known as a "currency  
10 transaction report," which is required to be filed by financial  
11 institutions, documenting cash transaction in excess of \$10,000  
12 to the IRS.

13 Mrs. Hovind and Mr. Hovind were charged and convicted  
14 of 44 counts of unlawful structuring.

15 Second, for those of you who may have read the  
16 newspaper this morning, you may be sitting here thinking Mrs.  
17 Hovind faces 225 years in prison. Technically, that may be the  
18 case if the Court applied the maximum sentence under the law  
19 and ran it consecutive to all 44 counts. Actually, it wouldn't  
20 be 225 years, it would be 220 years. Maximum consecutive  
21 sentences are extremely rare. They are reserved for cases with  
22 charges in far different facts than those that we have involved  
23 in this case, so while technically Mrs. Hovind may face a  
24 sentence of 200 -- actually, 20 years, if I did that, impose  
25 five year maximum on all 44 counts, that is an unrealistic

1 characterization of the sentence that she faces today.

2 Third, let me observe, as I do in practically every  
3 sentencing before the Court, that the family and friends, the  
4 statements that have been submitted to the Court, and the  
5 statements that were made here today are obviously statements  
6 of love and support that are sincere and very heartfelt. And  
7 as I stated, I believe, a moment ago, I have read each one of  
8 the letters that was submitted on Mrs. Hovind's behalf.

9 In every letter, without exception, there was a  
10 request for mercy from the Court, and today most of you  
11 suggested that a probated sentence would be a just sentence for  
12 Mrs. Hovind. But you need to understand that justice  
13 encompasses many considerations, not just what is just for an  
14 individual defendant, but also what is just from a societal  
15 standpoint.

16 There is no doubt that Mrs. Hovind is a Christian  
17 woman, who has strong faith in God, but as I stressed at  
18 Mr. Hovind's sentencing, and I will reiterate here today, this  
19 case has never been about religion. This case was about  
20 Mr. and Mrs. Hovind's violation of various criminal laws  
21 enacted by the Congress in this country. And it is no defense  
22 to a violation of these laws to argue that someone believed  
23 what they were doing was right, based on their religious  
24 beliefs.

25 In this case, although Mrs. Hovind's personal



1 background and characteristics suggest a sentence of probation  
2 may be appropriate, considerations such as the seriousness of  
3 the offense conduct in this case, the need to promote respect  
4 for the law, and to provide deterrence to others weighs in  
5 favor of a sentence of incarceration.

6 As I noted at Mr. Hovind's sentencing, and I  
7 noticed -- noted, again, excuse me, this morning, few if any of  
8 you were present in the courtroom during this trial. And based  
9 on the evidence that was presented during the trial, 12  
10 persons, citizens of this community, found Mrs. Hovind guilty  
11 of those 44 counts of structuring.

12 The guideline range which must be calculated under the  
13 law and has been calculated reflected in the presentence  
14 investigation report provides -- and let me note for the record  
15 provides for a base offense level of 22 -- that's based on the  
16 value of the funds. However, based on specific offense  
17 characteristics within the 2001 guideline manual that must be  
18 applied based on ex post facto issues, the base offense level  
19 is reduced from a 22 to a level of six, and the government has  
20 conceded this reduction in the offense level. There was no  
21 reduction for acceptance of responsibility due to the trial in  
22 this case. The total offense level then is a six with a  
23 criminal history category of one.

24 I have considered, as I'm required to do, all of the  
25 sentencing factors under 18 U.S.C. 3553(a) in arriving at this

1 sentence, including the applicable advisory guideline range,  
2 and I make the following observations: In consideration of  
3 Mrs. Hovind's personal history and characteristics, I do note  
4 that this is her first criminal offense, that she has no prior  
5 criminal arrest history, and that also that she is  
6 well-respected in the community, due to her work in ministry,  
7 and this has been evidenced by the many letters in support  
8 received by the Court.

9 As determined by the Court previously at Mr. Hovind's  
10 sentencing, it was apparent to the Court from the evidence in  
11 the case that Mr. Hovind was the decision-making authority at  
12 Creation Science Evangelism Ministry and as well as Dinosaur  
13 Adventure Land.

14 All right. I also considered in addition to Mrs.  
15 Hovind's personal history and characteristics, the nature and  
16 circumstances of the offense in this case, the need for the  
17 sentence to reflect the seriousness of the offense and promote  
18 respect for the law and provide just punishment for the  
19 offense, as well as to afford adequate general deterrence to  
20 the criminal conduct of others.

21 The determination of the appropriate guideline  
22 calculation in this case, as has been referenced by the  
23 attorneys, has been difficult. As you may recall, the Court  
24 asked both sides, both parties to file a brief regarding the  
25 applicability of the 16-level offense characteristic reduction

1 that I just referenced a moment ago, under Section 2S1.3(b) (2)  
2 of the guidelines. Absent that 16-level reduction, the  
3 defendant's guideline range in this case would have been 41 to  
4 51 months.

5 The government was unable to find any case law on  
6 point regarding this issue, and again, has consented to that  
7 reduction. The defense counsel also did not cite any cases  
8 specifically on point to this question of law in their  
9 memorandum.

10 Because this was a difficult issue, the probation  
11 office consulted the United States Sentencing Commission on  
12 this issue, and it was the commission's opinion, which is not  
13 binding on the Court, that the adjustment could go either way.  
14 The technical support staff person at the Sentencing Commission  
15 then, in turn, contacted and communicated with an individual  
16 within the Department of Justice in Washington, DC, who is  
17 familiar with application of this section of the guidelines.  
18 And this person indicated that the downward adjustment -- in  
19 his or her opinion, felt the downward adjustment did apply and  
20 that Mrs. Hovind should receive the benefit of that. And I  
21 presume that, again, that may be why the government has  
22 conceded this point.

23 And I have advised you now and I've stated on the  
24 record what that guideline range is with that 16-level  
25 reduction, and I'm required to consider those guidelines and I

1 have done so. However, the guidelines are no longer mandatory  
2 or binding on the Court and the Court must, instead, consider  
3 all of those factors in 18 U.S.C. 3553(a) in arriving at an  
4 appropriate and a reasonable sentence.

5 Under this law, I am required to consider the  
6 seriousness of the offense. And as the government has pointed  
7 out in its sentencing memorandum, this section of the  
8 guidelines manual -- the one I've just referenced a moment  
9 ago -- was revised in November of 2002 to provide an adjustment  
10 for funds structured in excess of \$100,000. This revision  
11 occurred just three months after the defendant's last act of  
12 structuring in August of 2002. This revision was made to  
13 address the seriousness of crimes such as this, where the  
14 amount involved exceeded \$100,000. However, as noted, this  
15 specific adjustment cannot be applied under the guidelines, due  
16 to ex post facto or constitutional considerations in  
17 calculating Mrs. Hovind's appropriate guideline range. So the  
18 guidelines are what they are, based on an appropriate  
19 calculation under the manual that must be applied to Mrs.  
20 Hovind in this case.

21 However, there are other considerations that I have  
22 considered in determining that the guideline range is  
23 insufficient in this case. In regard to the nature and  
24 circumstances of the offense and the seriousness of the offense  
25 and the need to provide adequate deterrence to others, I do

1 note that Mrs. Hovind cashed over 200 checks during the time  
2 period 1999 to 2003, all of which were under \$10,000, and  
3 combined, totaled over \$1.5 million for the express purpose of  
4 evading the cash transaction reporting requirements. And as  
5 noted in the presentence investigation report, there were --  
6 and this is in paragraph 21, counsel -- there were several or  
7 numerous occasions in which Ms. Hovind obtained in excess of  
8 \$10,000 during a 24-hour period. And just an example,  
9 December 20th, 1999, there were two checks in \$7500 increments.  
10 December 12th, there were two checks for \$19,500. There are  
11 other examples in this paragraph.

12 But on several of those occasions, these transactions  
13 were conducted just prior to the bank's cut-off time and then  
14 the second transaction being just after that bank -- the end of  
15 the banking day for the financial institution, which, in most  
16 cases, you're probably familiar is usually 2:00 p.m. and was in  
17 this case.

18 As also noted in the presentence report as well as  
19 presented as part of the evidence during the trial, Mrs. Hovind  
20 was in control of the payroll at CSE as well as Dinosaur  
21 Adventure Land. She was, therefore, very aware of the  
22 finances, and she was also in control of the finances and the  
23 money. She knew there were sufficient funds available within  
24 the bank accounts to meet any need that CSE or Dinosaur  
25 Adventure Land may have had. She could have easily withdrawn

1 enough funds at any time to meet those financial obligations at  
2 the time, including the tax obligations. Again, the checks  
3 were cashed more than once per week, sometimes more than once  
4 per day; some occurring, again, before -- just before and just  
5 after the bank's daily accounting period.

6 Based on these findings, this Court concludes that  
7 this conduct of Mrs. Hovind's contributed and can be attributed  
8 to the -- to the government's theory that this conduct was done  
9 to help facilitate Mr. and Mrs. Hovind's avoidance of the  
10 payment of employment taxes. The evidence at trial  
11 demonstrated that it was their intent -- and I'm including Mrs.  
12 Hovind in this -- it was their intent to keep that ministry  
13 under the radar screen of the IRS. And there were several ways  
14 in which they did that, but one of the ways was to pay their  
15 employees in cash. It's not traceable. There is no paper  
16 trail and that's one of the reasons the government in this case  
17 wasn't even able to come up with an accurate accounting of what  
18 taxes were actually due and not paid. And cash helped, again,  
19 to facilitate -- to facilitate that purpose.

20 Also, something that hasn't been discussed here this  
21 morning, but is significant for the Court, the evidence at  
22 trial demonstrated that Mrs. Hovind committed additional acts  
23 of structuring, and this was in connection with the purchase --  
24 her and Mr. Hovind's purchase of a home from a witness who  
25 testified at the trial, that was Ms. Darlene Porter. Although

1 Mrs. Hovind and Mr. Hovind were not charged with these acts of  
2 structuring due to the statute of limitations, the evidence  
3 presented at trial revealed that she purchased four cashier's  
4 checks, each of which were under \$10,000, totaling 30,000. It  
5 wouldn't be four cashier's checks. It would be three cashier's  
6 checks, all under 10,000 -- let me make sure that's right.

7 Ms. Lassiter, do you remember the specific amounts of  
8 the checks?

9 THE PROBATION OFFICER: Yes, Your Honor, it's in the  
10 presentence investigation report.

11 THE COURT: I don't want to misstate.

12 MS. HELDMYER: Your Honor --

13 THE COURT: Here it is, I have it. The checks were  
14 9,000 -- three checks for 9,000 and one for 3,000.

15 MS. HELDMYER: That's correct, Your Honor. But if I  
16 may, Your Honor, technically, it's not structuring if it's  
17 cashier's checks, it has to be cash, which is why they were not  
18 charged with that particular offense. It was not technically  
19 structuring.

20 THE COURT: The conduct was the same.

21 MS. HELDMYER: Correct.

22 THE COURT: So there were four cashier's checks. They  
23 were each under 10,000 for a total of 30,000 for the purchase  
24 of this home. Moreover, the evidence showed that at the  
25 closing, Mr. and Mrs. Hovind did not report the \$30,000 on --

1 in cash on the closing statement, which was given to Ms. Porter  
2 in payment for the home.

3 And I've also taken into consideration Mrs. Hovind's  
4 own acts of tax protesting. There was evidence at trial that  
5 she jointly filed in federal court with Mr. Hovind a motion to  
6 quash administrative summons issued and filed by the Internal  
7 Revenue Service. Mr. Barringer argues that there was no proof  
8 that she actually knew that took place or that she actually --  
9 that was actually her signature. The jury could infer, and  
10 this Court can certainly find from the evidence, that she did  
11 engage in this activity.

12 Also, there was a power of attorney and revocation of  
13 signature that was filed with the Escambia County Clerk of  
14 Court in which Mrs. Hovind -- Mrs. Hovind claimed sovereign  
15 American status and revoked all of her signatures. These are  
16 classic tax protester activities.

17 In addition, the evidence at trial established and  
18 demonstrated that Mr. Hovind created at CSE a video that  
19 advocated the nonpayment of taxes. And based on Mrs. Hovind's  
20 role at the ministry and her relationship with Mr. Hovind, I  
21 find that she must have been aware of the nature and existence  
22 of that video.

23 All right, Mrs. Hovind, as I've indicated, I'm going  
24 to impose a sentence of incarceration and it is going to be a  
25 sentence of one year and one day, and that sentence will be



1 followed by three years of supervised release. I find that any  
2 sentence less than that, a sentence within the guideline range,  
3 would be insufficient to meet the goals of sentencing that I  
4 have outlined, I think, at length here today. I also want the  
5 record to reflect that I believe and would find that a sentence  
6 within the guideline range of 41 to 51 months would have been  
7 greater than necessary to comply with the purposes of  
8 sentencing.

9           Should the appellate court disagree with the  
10 calculation of the applicable guideline range, I would like to  
11 note for the record that I would impose the same sentence again  
12 taking into account the above factors that I've now mentioned.

13           Mrs. Hovind, would you please rise at this time.

14           At this time, I do formally adjudicate you guilty of  
15 Counts 13 through 15 of the indictment and that's consistent  
16 with the jury's verdict of guilt in your case. Pursuant to the  
17 Sentencing Reform Act of 1984 and all amendments of that law,  
18 it is the judgement of the Court that the defendant, Jo D.  
19 Hovind, is hereby committed to the custody of the Federal  
20 Bureau of Prisons to be imprisoned for a term of one year and  
21 one day on each of the counts to run concurrently, one with the  
22 other.

23           I also make the recommendation that Mrs. Hovind be  
24 designated to a federal prison camp for confinement. I would  
25 specifically make the recommendation for FPC Marianna and that

1 would be so she could receive visitation from her family.

2 I do find that the defendant does have the ability to  
3 pay a fine in this case, and therefore, in interest of justice,  
4 I do impose a fine in the amount of \$3,500. Also, pursuant to  
5 law, there is a \$100 special monetary assessment that is due  
6 and ordered as to each of the 40 -- on each count and that  
7 would be for a total of -- is it 45?

8 THE PROBATION OFFICER: Forty-five counts, Your Honor,  
9 so it's 4500.

10 THE COURT: Forty-five counts.

11 MR. BARRINGER: Yes, Your Honor, that's correct.

12 THE COURT: I apologize, I thought it was 44 counts.  
13 I miscalculated. I apologize.

14 Forty-five counts, \$100 on each of the 45 counts for a  
15 total of \$4500. That's due and payable immediately.

16 Upon your release from incarceration, Mrs. Hovind, you  
17 will be placed on a period of supervised release for a term of  
18 three years and that will be as to Counts 13 through 57, with  
19 the counts to run concurrent, one with the other. Supervision  
20 will be under the standard conditions adopted for use in this  
21 district together with the following special conditions: You  
22 will be required to participate in -- I apologize, the special  
23 conditions are as follows: You shall not own or possess either  
24 directly or constructively any firearm, any dangerous weapon,  
25 any type of destructive device. This would include any

1 ammunition as well as any hunting weapons. Any unpaid balance  
2 of your fine will become a condition of your supervised release  
3 and you will be required to pay not less than \$100 per month to  
4 commence within three months of your release from  
5 incarceration.

6 You will also be required to provide the probation  
7 office with access to any requested financial information and  
8 you will be required to report the source and/or amount of  
9 personal and/or business income and financial assets to the  
10 supervising probation officer as directed.

11 You may both be seated. I have some more I need to  
12 state for the record.

13 You shall not incur any new credit charges or open any  
14 additional lines of credit without the prior approval of the  
15 probation officer unless and until you've satisfied the fine  
16 obligation.

17 You shall also not dispose of or transfer any asset or  
18 interest you have of any asset without the prior approval of  
19 the probation office until you have satisfied the fine  
20 obligation.

21 Although mandatory drug testing is required pursuant  
22 to the law, I do have the authority to suspend that condition  
23 and I do so at this time based upon my determination that you  
24 pose a low risk of any future substance abuse, and so you will  
25 not be subject to the mandatory drug testing during your period

1 of supervision.

2 As I've indicated, I've made a recommendation for a  
3 designation to a facility, namely that in Marianna. Please  
4 understand the Bureau of Prisons has its own criteria that it  
5 looks to in determining where someone should be housed;  
6 however, I do note that they do take my recommendation into  
7 account when making that determination.

8 The total sentence in this case is one year and one  
9 day, followed by three years supervised release; \$3,500 fine;  
10 \$4,500 special monetary assessment.

11 Other than those objections that have been noted,  
12 raised, preserved in the record, are there any other objections  
13 to the Court's ultimate findings of fact or conclusions of law  
14 as related to the sentence, Ms. Heldmyer?

15 MS. HELDMYER: No, Your Honor. We would ask -- I know  
16 the Court entered an order of forfeiture. I know the Court is  
17 planning on addressing that. I think we need an oral  
18 pronouncement of the forfeiture and I believe, then, we would  
19 then request that it be part of the judgement and commitment.

20 THE COURT: It has been entered. And if you need an  
21 oral pronouncement, you'll have that at this time and it will  
22 be reflected in the judgement and the J and C.

23 Mr. Barringer?

24 MR. BARRINGER: Nothing with respect to what I haven't  
25 already preserved as far as the record is concerned. I would

1 ask or inquire whether the Court intends on Mrs. Hovind  
2 self-reporting at some point or whether it's your intention to  
3 take her into custody today.

4 THE COURT: Ms. Heldmyer, I've received a report from  
5 pretrial services. Mrs. Hovind has been compliant with the  
6 terms of her bond. It would be my intent to allow her to  
7 remain on release awaiting -- well, awaiting execution of her  
8 sentence. Do you have any objection to that?

9 MS. HELDMYER: I do not, Your Honor.

10 THE COURT: Mrs. Hovind, I'm going to allow you to  
11 remain on release until such time as you will voluntarily  
12 report to begin serving your sentence. I'm going to make your  
13 reporting date for August 31st. That will give the Bureau of  
14 Prisons -- and you may be seated -- that will give the Bureau  
15 of Prisons sufficient time to designate a facility for you.

16 You are required to report to that facility, if the  
17 designation is made by August 31st, you are required to report  
18 there at your own expense by 12 noon on that date. If the  
19 designation has not been made within that time period, you will  
20 report here to the marshal's office by 12 noon on August 31st.

21 Mrs. Hovind, you do have the right to appeal from this  
22 sentence. If you choose to do so, please understand that your  
23 notice of appeal must be filed within ten days of the date of  
24 the judgement which will be reduced to writing and it will be  
25 entered sometime next week. If you cannot afford the cost of

1 an appeal, you may file for leave to appeal in forma pauperis  
2 or no cost to you. Upon request, our Clerk of Court would file  
3 a notice of appeal immediately on your behalf. However, I'm  
4 confident that Mr. Barringer can advise you further about your  
5 appeal rights. Please do remember, though, that it's ten days  
6 from the date of the judgement.

7 If there is nothing else, counsel will be excused and  
8 Court will be in recess.

9 (Proceedings concluded at 11:13 a.m.)

10 -----  
11

12 I certify that the foregoing is a correct transcript from the  
13 record of proceedings in the above-entitled matter. Any  
14 redaction of personal data identifiers pursuant to the Judicial  
Conference Policy on Privacy are noted within the transcript.

15 s/Gwen B. Kesinger

11-1-07

16 \_\_\_\_\_  
17 Gwen B. Kesinger, RPR, FCRR  
18 Official Court Reporter

\_\_\_\_\_  
Date