

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF TEXAS
3 HOUSTON DIVISION
4 UNITED STATES OF AMERICA : CR. NO. H-03-362 SS
5 VS. : HOUSTON, TEXAS
6 RALPH JOHN DENNIS : JULY 9, 2004
7 : 2:41 P.M.

8 TRANSCRIPT of SENTENCING
9 BEFORE THE HONORABLE SIM LAKE
10 UNITED STATES DISTRICT JUDGE

11 APPEARANCES:

12 FOR THE GOVERNMENT: MR. EDWARD GALLAGHER
13 MR. RICHARD MAGNESS
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26 Proceedings recorded by mechanical stenography, transcript
27 produced by computer-aided transcription.

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2 THE COURT: The United States versus Ralph Dennis.

3 MR. KRAKOFF: Good afternoon, Your Honor. David
4 Krakoff on behalf of Ralph Dennis.

5 THE COURT: Good afternoon. Mr. Dennis, have you read
6 the presentence report before today?

7 THE DEFENDANT: Yes, Your Honor, I have.

8 THE COURT: Under Docket Entry 181 are your objections
9 to the presentence report. None of them affect the guideline
10 range, and I accept the addendum, which addresses them. So, I
11 adopt the presentence report and the addendum.

12 Your total offense level is 14. Your criminal
13 history category is I. Your guideline range is 15 to 21 months
14 in prison. The government's motion for downward departure is
15 granted. I have read your sentencing memorandum.

16 You may now make a statement and present any
17 information in mitigation of your sentence, and your attorney
18 may make any argument on your behalf.

19 THE DEFENDANT: Your Honor, first, I would like to say
20 I accept full responsibility for the wrongful act that was
21 perpetrated. I'm deeply ashamed. I'm deeply remorseful about
22 what's happened. I have done everything that I can to try to
23 make amends for what happened. I've cooperated fully with the
24 government. I immediately resigned my position when I made the
25 decision that I wanted to cooperate. I will promise you that

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1 regardless of what your decision is today, that you will never
2 see me in a courtroom or hear of my name again involved with
3 the judicial system. I'm just deeply sorry.

4 THE COURT: Thank you.

5 MR. KRAKOFF: Thank you, Your Honor. Thank you for

6 the opportunity to address you on behalf of Mr. Dennis today.
7 We would ask the Court, consistent with the recommendation of
8 the United States, to sentence Mr. Dennis to a period of
9 probation with home detention. Should the Court determine that
10 a further departure beyond that recommended by the United
11 States is appropriate, we would ask the Court to impose a
12 sentence of probation, because he would be therefore in Zone A
13 of the United States Sentencing Guidelines.

14 Your Honor, I believe that Mr. Dennis is
15 certainly deserving of a sentence of probation with home
16 detention or even probation. And I say that for a several
17 reasons. First, there can be -- as the probation report
18 concludes and as the government concludes as well, Mr. Dennis
19 has fully accepted his responsibility. And I mean in a way
20 beyond the meaning given to that, that factor within the
21 Sentencing Guidelines.

22 I have never represented a client who so clearly
23 and unequivocally understood what he had done and accepted it
24 without any inhibition whatsoever. It was exactly a year ago
25 today, Your Honor, July 9th of 2003, that I met with

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1 Mr. Gallagher and Mr. Magness for the very first time after I
2 had gotten involved in the case in their office. And they
3 reported to me that they were prepared to return an indictment
4 against my client and, of course, if he determined that he
5 wished to cooperate, they would take that into consideration.
6 No promises whatsoever.

7 That day I got on an airplane and I flew to
8 St. Louis where Mr. Dennis was at the time. We met in the
9 airport. We spent a couple of hours together. And he

10 determined immediately on the spot to try as best he could to
11 put that chapter of his life behind him. He said, "I want to
12 cooperate. I did the wrong thing. I am embarrassed and
13 ashamed of what I did. And I want you to report that to the
14 United States Attorney's Office." I did that the very
15 following day.

16 And within one week Mr. Dennis met with
17 Mr. Gallagher and Mr. Magness in their office and he
18 unabashedly, without inhibition described what he had done and
19 what others had done. And, of course, the Court knows that and
20 that's been reported fully to Your Honor. But I think the
21 chain of events there was something that I had not experienced
22 in my years as a defense attorney. And I think it speaks about
23 Mr. Dennis. He fully wanted to put this behind him.

24 The day after he met with Mr. Gallagher and
25 Mr. Magness on July 16th, 2003, he resigned a position that had

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1 been very important him. He had spent 30 years with the Union.
2 And he did that, again, to start immediately to make amends, to
3 put that, his bad conduct, his wrongful and illegal conduct
4 behind him. So, I say that that is one reason that he is
5 deserving of probation.

6 A second reason, Your Honor, is that the valuable
7 assistance that he has given to the government. As the
8 government has said in its submission to the Court, Mr. Dennis
9 was clearly the most important witness it had against the three
10 other defendants. His information and his cooperation was
11 undoubtedly substantial. He was the first insider witness that
12 the government had obtained. Before that it was all DLCs who
13 had come forward and who had been given immunity. But there

14 was no one to provide the inside as to the interworkings of the
15 Union. Mr. Dennis did that. He stepped forward. He was the
16 first one to do that, and I think that's significant.

17 And he continued his cooperation throughout. He
18 met or spoke with by telephone nine or ten times over the
19 course of a year. He was prepared to be a witness at trial.
20 And he did that with regard to men who he had spent years
21 working with. This was not an easy thing to do. But he did it
22 because he understood that he had done the wrong thing, and he
23 was ashamed of it.

24 A third reason I would submit is that he
25 continued his cooperation. He's worked with the Railroad

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1 Retirement Board to assist them to preserve funds for
2 pensioners. He's also worked with the outside counsel to the
3 Union itself, to the UTU, to assist them to put the Union back
4 on the right foot, to attempt to forge some of the changes that
5 the Court spoke with Mr. Boyd about, and I think that's
6 significant as well.

7 I think a fourth reason, Your Honor, that
8 Mr. Dennis is deserving of probation is simply that, in my
9 view, Mr. Dennis is the best example of rehabilitation,
10 self-rehabilitation that I can imagine. He made a decision, he
11 saw what he had done, and he put himself one year ago today on
12 the path of rehabilitation. That's what someone should do who
13 has been engaged in the kind of conduct that Mr. Dennis was.

14 And he has -- once he quit his job and turned in
15 his keys, just a little less -- one week less than a year ago,
16 he moved back to Iowa where he was from, he retook his
17 seniority on the Union Pacific Railroad, and he went back to

18 the job that he had started with 30 years ago as a conductor on
19 the railroad, where he has been gainfully employed.

20 And we would ask the Court, particularly because
21 of the efforts that he has made with the government and also to
22 rehabilitate himself -- during this period of time he has
23 remained a loyal son, a committed parent. He's caring for his
24 ailing father. He has assisted financially and morally with
25 his daughter, his son, his father. People here, as you've read

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1 about in our submission, support him. Friends have stood by
2 him, because he is, despite his wrongful conduct, he's at his
3 core a good man. His fiancée is here in court today. His
4 sister is here in court today supporting him. He is, as I
5 said, at his core a good man.

6 And so for all these reasons, Your Honor, we
7 would ask you to impose a sentence of probation or in the
8 alternative, with a period of home detention, that will allow
9 him to maintain his employment. Should he be imprisoned, he
10 will lose that employment. I believe, Your Honor, that by
11 maintaining that employment, he is able to continue on the path
12 of rehabilitation that he has embarked upon. So, I would ask
13 the Court to so impose.

14 As to a fine, I would ask the Court to not
15 fine -- to not impose a fine on Mr. Dennis for two reasons.
16 One, there's a substantial forfeiture that he with his means he
17 has agreed to pay.

18 THE COURT: How much is his forfeiture?

19 MR. KRAKOFF: \$45,000 to be paid, as agreed with
20 Mr. Gallagher, over the space of a year. He has a little over
21 \$70,000 in his pension, which he will liquidate to take care --

22 to satisfy his obligation, but he simply does not have
23 significant funds available at this point in time. And so I
24 believe, Your Honor, that I would implore the Court to not
25 under the circumstances impose a fine. Thank you, your Honor.

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1 THE COURT: Mr. Gallagher.

2 MR. GALLAGHER: Your Honor, it's unique for the
3 government to ask that a sentence not include any time of
4 imprisonment, particularly in a racketeering case, in a case
5 that involved such pervasive corruption. Mr. Dennis was a
6 bagman, of course, and he played a role that was significant at
7 least to Mr. Little and Mr. Boyd and, in fact, benefited
8 himself in that.

9 But what's so unique about Mr. Dennis is
10 typically it takes time working with an individual to get them
11 to fully realize their cooperation and to provide facts as an
12 insider. Mr. Dennis arrived on our doorstep two months before
13 we even indicted this case. And as Mr. Krakoff so eloquently
14 stated, took not only full responsibility, but began to lay out
15 the entire scheme that fit within his otherwise honest
16 employment with the UTU, which gave the government for the
17 first time the ability to put together its indictment and the
18 facts of its case and know fully what was going on inside as
19 opposed to just hearing the DLC view of what was going on, and
20 it certainly strengthened the case and I believe led to
21 ultimately the pleas that followed. He was the first domino.
22 And this would have been a very expensive and time-consuming
23 trial. But what's unique about Mr. Dennis was, it was
24 immediate and it was complete and he has not changed since
25 then. And he will continue I'm sure to be of any help that he

1 can, because he did hold an important position as director of
2 insurance and had a lot of influence over people and was
3 well-liked by a lot of people, notwithstanding his following
4 directions in such a nefarious way to help this corrupt
5 process. But in the end, indeed, he was the most valuable
6 witness and does deserve to be given a sentence that does not
7 include a term of imprisonment but a term of home detention.

8 THE COURT: My concern about home detention is if he's
9 out on trains all the time, how is he going to be subject to
10 home detention? Normally home detention you work during
11 working hours and you go home 6:00 p.m. and you check out again
12 at 6:00 a.m.

13 what's your normal run?

14 THE DEFENDANT: Sir, when I'm called, I run from
15 Boone, Iowa, either to Fremont, Nebraska, or Clinton, and I
16 never know until the phone rings. I can tell you that
17 99.9 percent of the time, unless I'm visiting my father or I'm
18 going to get groceries, or whatever, I'm at home when I'm not
19 working. The simple fact is that, you know, you can only work
20 so long without sleep. And the railroad has made it so that
21 when the phone rings, you can pretty much expect most of the
22 time you're going to work 12 hours and when you get in, you
23 know, you rest and go to work again.

24 THE COURT: I'm just -- where is the probation
25 officer? How do we structure home confinement in a job where

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1 he doesn't have regular working hours, he's always subject to
2 call and being out on the road?

3 THE PROBATION OFFICER: It would be very difficult,
4 Your Honor. If the Court is inclined to impose home detention,
5 I would suggest it be without electronic monitoring, because
6 the electronic monitoring device would be going off all the
7 time. He can contact by phone the probation officer in Iowa to
8 advise him of his schedule when he's called out, and then he
9 could be monitored by phone or visits.

10 THE COURT: I sentence you to three years of straight
11 probation. As a special condition, you will not possess a
12 firearm or other destructive device. You will pay a fine of
13 \$2,000. It will be paid at the rate of \$50 a month beginning
14 30 days from today. You will pay now the mandatory \$100
15 special assessment. The government has already dismissed the
16 remaining counts.

17 MR. GALLAGHER: No, Your Honor, this is a separate
18 indictment.

19 THE COURT: Oh, this is an information, that's
20 correct.

21 MR. GALLAGHER: No, it's an indictment. It was the
22 first indictment filed. The others were on a second
23 superseding.

24 THE COURT: All right. I thought he pled to an
25 information.

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1 MR. GALLAGHER: No, sir.

2 THE COURT: Okay.

3 MR. GALLAGHER: There's also an order of forfeiture.
4 His is a little more detailed because there was no preliminary
5 order signed at the time of his plea.

6 MR. KRAKOFF: And I would also note, Your Honor, that
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7 as stated earlier, he -- upon agreement with the United States,
8 he has one year to pay his obligation under the forfeiture.

9 MR. GALLAGHER: That's correct, Your Honor.

10 THE COURT: Has the government complied with the plea
11 agreement?

12 MR. KRAKOFF: Yes, Your Honor.

13 THE COURT: Then as I read the agreement, the
14 defendant has no right of appeal.

15 MR. KRAKOFF: That's right.

16 THE COURT: Does either counsel wish to say anything?

17 MR. GALLAGHER: No, sir.

18 THE COURT: All right. Mr. Dennis, you will report to
19 the probation officer so that she can explain what's going to
20 happen after this. Good luck.

21 THE DEFENDANT: Thank you, Your Honor.

22 MR. KRAKOFF: Thank you, Your Honor.

23 THE PROBATION OFFICER: Excuse me, Your Honor. Since
24 Mr. Dennis has no history of substance abuse, is the Court
25 inclined to suspend the mandatory drug testing?

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1 THE COURT: Yes.

2 THE PROBATION OFFICER: Thank you, Your Honor.

3 (Concluded at 3:00 p.m.)

4 * * *

5 I certify that the foregoing is a correct transcript from the
6 record of proceedings in the above-entitled cause, to the best
7 of my ability.

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9 Kathy L. Metzger
Official Court Reporter

Date

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