

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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(RE:) UNITED STATES OF AMERICA,

Plaintiff,

vs.

Case No. 03-CR-126-C

CHRISTOPHER L. TEMPLE,

Defendant.

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**MOTION UNDER 18 U.S.C. SEC. 3583(e)(1) REQUESTING TERMINATION OF  
THE UNEXPIRED TERM OF SUPERVISED RELEASE; IN THE  
ALTERNATIVE, A MOTION UNDER 18 U.S.C. SEC. 3583(e)(2) TO MODIFY  
THE TERMS OF SUPERVISED RELEASE  
AND DEFENDANT'S ANSWER, IN PART, TO PENDING ACTION BY THE  
GOVERNMENT**

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Christopher L. Temple, (hereinafter "Temple"), appearing before this court Pro Se, representing and speaking for himself at all times as is his right protected under the Sixth Amendment to the Constitution, hereby submits this Motion under 18 U.S.C. Sec. 3583(e)(1) requesting that the Court terminate his present term of supervised release, and discharge him from the remainder of his sentence (excepting, as legally appropriate, that portion that will be enforced civilly, having to do with his restitution obligations.)

In the alternative, in the event that the Court for some reason will not terminate this term of supervised release, this Motion should be construed as one made under 18 U.S.C. Sec. 3583 (e)(2) to modify/reduce the terms of Temple's supervised release, in the manner and for the purposes set forth below.

Finally, in the event that the Government seeks to pre-empt this effort by Temple in some way, and/or in answer to its charges in a hearing it has notified him (as of December 11, 2010) is forthcoming, this Motion additionally will serve as Temple's answer, in part, to the Government.

**REASONS FOR THE COURT TO GRANT THE MOTION UNDER 18 U.S.C.  
SEC. 3583(a)(1) PURSUANT TO THE PURPOSES OF SENTENCING, ETC. AND  
IN THE INTEREST OF JUSTICE**

18 U.S.C. Sec. 3583(e)(1) provides in pertinent part that, "The court may, after considering the factors set forth in section 3553(a)(1), (a)(2)(B), (a)(2)(C), (a)(2)(D), (a)(4), (a)(5), (a)(6), and (a)(7)...terminate a term of supervised release and discharge the defendant released at any time after the expiration of one year of supervised release, pursuant to the provisions of the Federal Rules of Criminal Procedure relating to the modification of probation, *if it is satisfied that such action is warranted by the conduct of the defendant released and the interest of justice...*" (*Emphasis added.*)

Temple's term of supervised release commenced on November 25, 2009; so he is past the one year threshold required for the consideration of this motion.

Temple requests that the Court take notice of and consider the following in relation to those elements of the statute reasonably pertaining to this Motion:

**1. The nature and circumstances of the offense; sentencing range; punishment** -- Temple was convicted of one count each of mail fraud and money

laundering, as the record of this case reflects. The lawful Guideline range attributable to the offense of conviction, as determined by the sentencing Court, was 12-18 months (The record will also show that Temple argued that figure was incorrect, and that the Guideline range should have been 0-6 months.)

**2. The need to afford adequate deterrence to criminal conduct** -- Temple respectfully suggests that this has been accomplished many times over. This is not only by his being punished by imprisonment and, now, supervised release for a period of time substantially longer than his conviction, plea agreement and the law at the time of his sentencing provided for. The accomplishment of this objective of sentencing is also reflected by his conduct as described further below.

**3. To protect the public from further crimes of the defendant** -- This has also been accomplished by Temple's long period of incarceration. It has especially been accomplished by the terms/application, to date, of his conditions of supervised release as detailed, in part, below in the discussion entitled, "Conduct of the Defendant."

**4. The need to avoid unwarranted sentencing disparities** -- Temple has *already* served substantially more time, both by being imprisoned and additionally having his liberties and livelihood still curtailed via supervised release, than anyone else found guilty of what his offenses of conviction were.

**5. THE NEED TO PROVIDE RESTITUTION TO ANY VICTIMS OF THE OFFENSE.**

This purpose of sentencing has barely merited attention as an afterthought. Currently, this purpose of sentencing is being willfully diminished -- if not destroyed,

if her current efforts are allowed by the Court to bear fruit -- by Temple's Probation Officer Kelley Gustaveson. *This effort -- not the first such of hers -- is also an unwarranted attack on Temple's victims' rights protected under the law, the sentence imposed on him, and the Mandatory Victims Restitution Act.*

The current effort -- which Temple will detail and provide documentation of at a hearing, should the Court deem it necessary -- essentially involves Ms. Gustaveson's attempt to destroy two sources of income/businesses of his. Not only would this *force* him, arguably, into committing new frauds and create a huge new financial problem for him as a result, but -- as she seeks to force him into finding some menial, wage-paying job -- will also seriously harm his obligations to continue supporting his family financially, as he regularly does, and to be available as needed to care from time to time for his oldest son, who is disabled.

Needless to say, it would also essentially end his ability to pay any further meaningful restitution to his victims for the duration of his supervised release.

During Temple's nearly five years of incarceration, he was most often paying \$25 *per quarter* toward his restitution obligation, this, chiefly, from his tiny prison "pay." Were this Court one of his victims, Temple suggests she/he would find such "restitution" insulting; but such was the priority afforded to 18 U.S.C. Sec. 3553(a)(7).

Temple's fortunate ability to have a recognized business to come home to (despite his being essentially barred from advertising it due to the terms of his supervised release) -- together with his recently taking on an additional business opportunity -- has allowed him thus far to repay several thousand dollars since his return home. Were the Court to

grant his Motion and he were actually allowed now to advertise his business and its *third-party documented* success effectively, he believes he could do far better for his victims; something that, Temple prays, this Court will now find important.

That up until now his victims were having to pay for Temple's incarceration -- and, more recently, have finally started seeing some nominal and growing restitution -- it would be the worst miscarriage of justice this Court could allow to, now, make them pay the salary(ies) of Probation officers seeking to relegate Temple -- and them -- back to "Plan A."

Temple trusts that the Court has some sense of the importance of restitution not only to the victims in this case, *but to Temple himself*. Indeed -- in the event that a hearing(s) to come goes this far -- he will document that each and every dispute that has arisen with his Probation Officer over the last year and a half has had to do with his objections to her *essentially adding to* his terms of supervised release, in ways which harm the objectives of sentencing (and support of his family and payment of restitution in particular) and threaten the viability of his legitimate, lawful business.

The Court can best alleviate this situation -- and serve the interest of justice for Temple's victims, not to mention for him and his family -- by granting this Motion. It is not necessary for any further criminal sanctions or threats of same to be employed against him; indeed, in the Seventh Circuit, restitution is *a civil matter* rather than criminal anyway; see *U.S. v. Pree*, 408 F.3d 855 (7th Cir.-2005) and *U.S. v. Rand*, 403 F.3d 489,495 n. 3.

He will still be accountable as provided for by the MVRA and other pertinent

laws to, in part, the Financial Litigation Unit.

### **CONDUCT OF THE DEFENDANT**

Temple respectfully submits and argues that -- since his prosecution -- he has at all times been remorseful and dedicated to righting his wrongs. Further, he has met -- and often *exceeded* -- what has been expected of him in following the rules and restrictions he has had to live with.

*He has been credited thus even by the Government.* When the question arose as to whether he would remain at liberty following his February, 2004 guilty plea, Temple was said by AUSA John Vaudreuil to be following his conditions "scrupulously." Accordingly -- and being deemed no threat to the public -- he was allowed ultimately to report to F.P.C. Duluth for his sentence.

There -- apart from two early (in his term) minor infractions he inadvertently stumbled into in his use of the prison's inmate phone system -- his conduct was clear. Indeed, he was trusted with and carried out several extraordinary responsibilities by the staff; this included, among other things, serving as the clerk for his "dorm" of about 180 other inmates, serving as an adult education instructor and more.

He has had no infractions or disciplinary problems whatsoever since being released from F.P.C. Duluth; either at the Fahrman Center (the halfway house he was assigned to) or while on supervised release. The possible and only exception to this is what Temple believes to be the Probation Department's current attempt to manufacture a technical violation.

Indeed -- and *just one* of the many documentable things that will put the lie to any

suggestion that he does not understand his conditions of supervised release, refuses to follow them, refuses to cooperate with the Probation Office, or whatever -- Temple will submit *his role* in crafting the "public notification" statement presently required by his terms of supervised release, and related matters to the "supervision" of his newsletter (*The National Investor*) business.

After Probation Officer Gustaveson was forced to retreat from her early attempt to prohibit him from publishing his newsletter *at all* -- despite the fact that his terms of supervised release quite clearly contemplated that he would be doing so -- the matter of the disclosure statement came up. Ms. Gustaveson crafted it and sent it to Temple.

Temple not only adopted it verbatim but *added to it*; specifically, the sentence reading, "Please be advised that *The National Investor* provides GENERAL investment/market advice and commentary: neither it nor Chris Temple manages individual investment accounts." This, after all, was the supposed purpose for the notification to begin with. Further still, he added his public notification not only to [www.nationalinvestor.com](http://www.nationalinvestor.com) but -- at Ms. Gustaveson's request, though it has nothing to do with *The National Investor* -- to [www.christempleonline.com](http://www.christempleonline.com). (On that latter site, Temple hastens to add, there *remains* his contrite, *public* apology to his victims.)

Beyond even all this, Temple has gone to great lengths to assure Ms. Gustaveson that *all* of his efforts vis-à-vis his publishing business are lawful. She has been provided access to his subscription records. She receives every single piece of mail Temple sends his subscribers (the only exception being renewal notices.) To further verify there are no financial issues, she has received information, expense receipts and more when and as

requested *in addition to* his regular monthly reports which have each and every month been timely filed.

**In summation**, and based on all the preceding, it would best serve the law and the interests of justice -- and is well supported by Temple's conduct -- for the Court to grant this Motion and terminate the term of supervised release.

**IN THE ALTERNATIVE, A MOTION UNDER 18 U.S.C. SEC. 3583(e)(2) TO  
MODIFY THE TERMS OF SUPERVISED RELEASE**

In the event that the Court for some reason will not terminate this term of supervised release, this Motion should be construed as one made under 18 U.S.C. Sec. 3583 (e)(2) to modify/reduce the terms of Temple's supervised release.

Specifically, he moves the Court to eliminate that provision -- labeled as (5) of the special conditions of supervised release -- which says Temple must, "Provide public notification of his conviction, in connection with any articles he writes, in any publications he owns, provides editing services for or contributes to in any manner and during any public broadcasts in which he participates."

In light of all the preceding in his Motion under 18 U.S.C. Sec. 3583(e)(1), Temple has demonstrated that this condition is certainly by now a "much greater deprivation of liberty than is necessary" -- to say the least. All that is *accomplished* now by this provision is that Temple is severely limited in his ability to advertise and attract new subscribers to his publication.

Temple respectfully suggests that it is well past the time to begin to give more attention to Sec. 3553(a)(7) and his unfettered, *lawful* ability to earn a higher level of

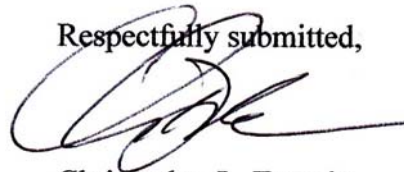
income and, thus, pay more restitution to his victims. The elimination of this special provision, if not of his supervised release entirely, will go a long way toward accomplishing this, as it will afford him an ability to actually better promote his product; something impossible as a practical matter to do now because of this provision.

This is a product -- Temple adds in closing -- that even his victims have viewed *and still do* view positively. The latest of a number of examples he could give was when one of his victims sent him an unsolicited check for \$375.00 just a few weeks ago for a longer-term subscription. Temple's response (which he made known to Ms. Gustaveson, as in similar past situations when his victims sent a check for a subscription) was that he would not cash the check under the circumstances, but instead put this man on as a "comp" subscriber. (The e-mail exchange with this man is attached to and made a part of this Motion as Exhibit A, pages A-1 and A-2.)

That this -- and several others of Temple's victims who are inclined to do so -- have *continued* to reach out to him in good will further, he submits, galvanizes all of the preceding and argues for the Court's granting of this Motion.

Dated: December 13, 2010

Respectfully submitted,



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