

F5QJNASS

Sentence

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

4 v.

S1 13 Cr. 950 TPG

5 PETER PHILIP NASH,

6 Defendant.

9 May 26, 2015  
10 4:40 p.m.

12 Before:

13 HON. THOMAS P. GRIESA,

14 District Judge

15 APPEARANCES

18 PREET BHARARA,  
19 United States Attorney for the  
20 Southern District of New York  
SERRIN A. TURNER,  
Assistant United States Attorney

21 ANDREW J. FRISCH,  
22 AMANDA L. BASSEN,  
JEREMY B. SPORN,  
23 Attorneys for defendant Nash

24 Also Present:

MITCHELL THOMPSON, Special Agent FBI  
GARY ALFORD, Special Agent IRS

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1 (In open court)

2 (Case called)

3 THE COURT: Sit down, please.

4 Mr. Frisch --

5 MR. FRISCH: Yes, your Honor.

6 THE COURT: -- have you gone over the presentence  
7 report, et cetera, with your client?

8 MR. FRISCH: Yes, we have gone over the report.

9 THE COURT: Any objections?

10 MR. FRISCH: We have identified our objections, your  
11 Honor, beginning on Page 3 of our sentencing memorandum  
12 submitted to the court.

13 THE COURT: Is there anything I need to take care of  
14 now?

15 MR. FRISCH: Your Honor, I think that if you order  
16 that the memorandum be appended to the PSR so that the  
17 objections are noted, my objections on Mr. Nash's behalf are  
18 noted --

19 THE COURT: That's what we'll do.

20 MR. FRISCH: -- I think that will satisfy us. Of  
21 course, we can discuss the relevant features of the objections  
22 when we get to the sentencing itself.

23 THE COURT: All right. What would you like to add?

24 MR. FRISCH: The only thing I would add, your Honor,  
25 is that I think that Mr. Nash should be sentenced to

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1 time-served.

2 THE COURT: What?

3 MR. FRISCH: I believe Mr. Nash should be sentenced to  
4 time-served. Your Honor, let me address sentencing, as your  
5 Honor has requested.

6 I believe Mr. Nash should be sentenced to time-served.  
7 I urge your Honor to do so. I was very pleased to read the  
8 government's memorandum, at Page 10 to 11, which in my  
9 experience is unusual. They point out that they believe the  
10 conduct that lands Mr. Nash here is an aberration, that his  
11 role was while not unimportant, was more attenuated to the Silk  
12 Road web site than others involved. He was the least culpable  
13 of the people involved who have been charged.

14 I think it is more than that, though. Mr. Nash has  
15 been in custody approximately 17 to 18 months and the  
16 conditions of his confinement are more severe than your typical  
17 defendant. He was extradited here from Brisbane in Australia  
18 where he lives. He was in custody there for about six or seven  
19 months. He has been at the MCC now for 11 or so months. He  
20 knows no one here other than counsel now.

21 His family and friends who live respectively in  
22 Australia and in the United Kingdom don't have the funds to  
23 make the trip, and in the case of his elderly parents in the  
24 United Kingdom, are too infirm, too elderly to make the trip.  
25 In the time he has been incarcerated here, he is isolated from

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1 family and friends which, of course, is atypical.

2 I point out in the sentencing memorandum something  
3 else that is atypical. When he was in Brisbane in custody on  
4 the extradition warrant out of the Southern District, he was  
5 gratuitously beat up not because of anything he did, but  
6 because apparently in this facility, that is the way they  
7 attempt to restore order when someone else violates a rule. Of  
8 course, the United States Government is not responsible for  
9 that, but it would not have happened but for his custody as a  
10 result of this case.

11 Mr. Nash is the kind of person I think all of us  
12 should want to know. We have submitted a video of four  
13 statements of people who know him well and a flurry of letters.  
14 His job in Australia and in his life before Australia was  
15 counseling intellectually-disabled people, often people who  
16 were facing jail, a thankless job.

17 He was on call at times around the clock. He got  
18 awards for his work. A few years ago he became very stressed  
19 about it, as we have documented in our papers and corroborated  
20 by people who have submitted letters on his behalf. He turned  
21 to the Silk Road web site. He knows he should not have done so  
22 and he did so for two reasons:

23 He never sold drugs. He never was part of the  
24 hierarchy of the people who ran Silk Road. He wasn't involved  
25 in transactions. Most important, he did not profit. He got

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1 involved because it gave him social connection that helped get  
2 through the stress of his life, and also in Australia I have  
3 come to learn it is difficult to get drugs, and Silk Road gave  
4 him an opportunity to find cocaine and ecstasy, to which he  
5 became addicted.

6 He ultimately served the people on the web site as  
7 chat forum moderator, didn't know the people personally but  
8 only online. For doing that in total he made approximately  
9 \$25,000, which he then put back to buying more drugs. He  
10 didn't profit beyond that.

11 His conduct in custody at the MCC is exemplary. We  
12 have appended to our sentencing memorandum a certificate of  
13 completion of every program you can possibly avail yourself of  
14 at the MCC including drug programs. I believe that the  
15 government notes that in their very nice letter at Page 10,  
16 very nice memo at Page 10 and 11.

17 Another good thing, he has friends who are clinical  
18 psychologists by virtue of his work. They're among the people  
19 shoe submitted the video statements and they're waiting to help  
20 him when he returns to Brisbane to honor his commitment to  
21 staying away from drugs and not getting involved in anything  
22 like this at all.

23 I respect what the government has done in this case.  
24 I think they've done great work in Silk Road. I respect the  
25 legitimacy of what they have done here. It does no disservice

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1 to their legitimate agenda for Mr. Nash today to be sentenced  
2 to time-served. Why? Because they have already sent the  
3 message if you're halfway around the world in Australia and  
4 you're an addicted professional, and you get involved in a web  
5 site even in a very minor role, the United States Government in  
6 New York may extradite you halfway around the world, isolated  
7 from family and friends and keep you in custody.

8 I think that sends a very significant message to  
9 anyone similarly situated who might be inclined to become  
10 involved in such a thing. I don't think there is anything to  
11 be gained by keeping Mr. Nash incarcerated for a moment longer.  
12 If your Honor can see clear to sentence him to time-served  
13 today after his 17 months, we are prepared to get him on a  
14 flight to London tonight or tomorrow morning. I say London  
15 because his elderly parents are there and it is easier to get  
16 him to the United Kingdom than Australia.

17 I would urge your Honor to sentence him to  
18 time-served. Our dealings with him over the past year and a  
19 half we have been representing him have been exemplary. He is  
20 a great guy. He has proffered with the government and  
21 satisfied the safety valve. They have found him truthful. He  
22 consented to the extradition. He has provided the government  
23 all the information about this episode that he knows.

24 I understand that it is criminal conduct. He takes  
25 full responsibility for it, but I you would simply say to your

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1 Honor that he doesn't need to serve another day in jail for  
2 this. 17 months is adequate, and I would urge your Honor to  
3 impose a sentence of time-served.

4 THE COURT: Does your client wish to make a statement?

5 MR. FRISCH: He does, your Honor, yes.

6 THE DEFENDANT: I want to offer my sincere and  
7 heartfelt apology to everyone negatively affected by my  
8 actions. It was never my intention to cause harm, but needless  
9 to say, that is what has happened. These past 17 months have  
10 been incredibly challenging not only for me, but for many  
11 others, and I have had a lot of time to reflect what got me  
12 into this very you unfortunate and highly regrettable  
13 situation.

14 The consequences of my actions have cost me dearly,  
15 and I am mindful my loss is mirrored by many others who  
16 suffered greatly themselves. I have a fiance in Australia  
17 waiting for me to come home so we can have our wedding and  
18 rebuild our lives.

19 I have elderly parents in the U.K. desperate to see  
20 their son again. It is my hope you can see me for the man I  
21 truly am and not the person who made very poor choices at a  
22 difficult time in his life, and I hope you can see fit to hand  
23 down a sentence that will allow me to get back to my life so I  
24 can start to move forward and put this chapter behind me.

25 THE COURT: Does the government have any motion?

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1           Is it appropriate to have a motion about the safety  
2 valve?

3           MR. TURNER: Yes, your Honor, we move for safety valve  
4 relief. The defendant is safety-valve eligible based on  
5 proffering and the fact he meets the other conditions.

6           THE COURT: Motion granted and the safety valve  
7 applies. We'll come to the sentence, and the sentence is  
8 time-served and \$100.00 -- how many counts?

9           THE CLERK: Two counts.

10          THE COURT: Time-served on each of the counts and a  
11 \$200.00 special assessment, and that is the -- I don't think  
12 there is any issue about a motion or an appeal. Has that been  
13 waived?

14          MR. TURNER: No, your Honor. There is no plea  
15 agreement. I would add that the parties do have a consent  
16 forfeiture order for \$25,000 that we have for your Honor to  
17 sign.

18          THE COURT: I'll do that.

19          MR. TURNER: Thank you. We'll move to dismiss Count 2  
20 of the superseding indictment as to this defendant and also the  
21 original indictment in its entirety against this defendant.

22          THE COURT: Those motions are granted. I have signed  
23 the forfeiture order. Let me reiterate that the sentence on  
24 both counts is time-served, to be serving concurrently. There  
25 will be a \$200.00 special assessment, and that is the sentence.



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1           For the record, if there has been no waiver of right  
2 of appeal, I advise him for the record that he has a right of  
3 appeal. Thank you very much.

4           (Court adjourned)

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