

FOR PUBLICATION

**IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN**

UNITED STATES OF AMERICA and the	)	
PEOPLE of the VIRGIN ISLANDS,	)	
	)	
Plaintiffs,	)	Criminal No. 2008-29
	)	
v.	)	
	)	
MALIK OSTALAZA,	)	
	)	
Defendant.	)	
_____	)	

ATTORNEYS:

Ishmael A. Meyers, Jr., AUSA
St. Thomas, U.S.V.I.
For the plaintiffs.

Jesse A. Gessin, AFPD
St. Thomas, U.S.V.I.
For the defendant.

SENTENCING MEMORANDUM OPINION

GÓMEZ, C.J.

The defendant, Malik Ostalaza ("Ostalaza"), was indicted in June, 2008 on three firearms-related counts and one count of interfering with an officer discharging his duty. Ostalaza pled guilty to two of the firearms counts: possession of a firearm with an obliterated serial number and unauthorized possession of a firearm. The Court held a sentencing hearing on November 26,

United States, et al. v. Ostalaza
Criminal No. 2008-29
Sentencing Memorandum Opinion
Page 2

2008. At the conclusion of the hearing, the Court sentenced Ostalaza to a term of imprisonment of eighteen months. This Opinion outlines the factors considered by the Court when it imposed that sentence.

In addition to the United States Sentencing Commission, Guidelines Manual, and the relevant statutes, the Court is required to give "meaningful consideration" to the factors set out in 18 U.S.C. § 3553(a) ("Section 3553(a)"). *United States v. Cooper*, 437 F.3d 324, 329 (3d Cir. 2006). Section 3553(a), in pertinent part, provides:

The court shall impose a sentence sufficient, but not greater than necessary, to comply with the purposes set forth in paragraph (2) of this subsection. The court, in determining the particular sentence to be imposed, shall consider-

(1) the nature and circumstances of the offense and the history and characteristics of the defendant;

(2) the need for the sentence imposed-

(A) to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense;

(B) to afford adequate deterrence to criminal conduct;

(C) to protect the public from further crimes of the defendant; and

(D) to provide the defendant with needed educational or vocational training,

United States, et al. v. Ostalaza
Criminal No. 2008-29
Sentencing Memorandum Opinion
Page 3

medical care, or other correctional
treatment in the most effective manner[.]

(3) the kinds of sentences available;

(4) the kinds of sentence and the sentencing
range established

. . . .

(5) any pertinent policy statement--

. . . .

(6) the need to avoid unwarranted sentence
disparities among defendants with similar
records who have been found guilty of similar
conduct; and

(7) the need to provide restitution to any
victims of the offense.

18 U.S.C. 3553(a).

The Court has carefully considered the several factors
enumerated in Section 3553(a). In particular, the Court notes
that the crimes to which Ostalaza has pled guilty are serious
firearms offenses, each of which carries a statutory maximum
penalty of five years imprisonment. The Court also notes that
the circumstances surrounding Ostalaza's offenses are especially
egregious, in that he possessed a firearm with an obliterated
serial number in the heavily-populated Carnival Village, during
the yearly carnival in St. Thomas. Additionally, the sentence
imposed ensures parity among similarly situated defendants.

United States, et al. v. Ostalaza
Criminal No. 2008-29
Sentencing Memorandum Opinion
Page 4

Finally, the Court finds that the sentence imposed on Ostalaza is necessary to deter future criminal conduct.

S_____
CURTIS V. GÓMEZ
Chief Judge