

LDD

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSLVANIA

UNITED STATES OF AMERICA : CRIMINAL NO. 07-577

vs. :

AN DUC DO :

MOTION FOR RECONSIDERATION OF SENTENCE

FILED
SEP 23 2008
By MICHAEL E. KUNZ, Clerk
Dep. Clerk

TO THE HONORABLE LEGROME D. DAVIS:

AND NOW comes the defendant, AN DUC DO, by his attorney,
Mark P. Much, Esquire, who represents as follows:

1. On September 17, 2008, following the entry of his pleas of guilty to the crime of conspiracy, a violation of 18 U.S.C. § 371 and to the crime of criminal infringement of a copyright, a violation of 18 U.S.C. § 506(a)(1)(C) and 18 U.S.C. § 2319(d)(2), the defendant was sentenced to three (3) years probation, four hundred (400) hours of community service, and ordered to pay a special assessment in the amount of two hundred (\$200.00) and a fine of fifteen thousand (\$15,000.00) dollars. The special assessment and seven thousand five hundred (\$7,500.00) was ordered to be paid immediately and the remaining seven thousand five hundred (\$7,500.00) dollars was ordered to be paid in one hundred (\$100.00) dollar monthly installments. A copy of the Judgment is attached hereto as Exhibit A.

2. The defendant has sufficient resources to pay the special assessment in the amount of two hundred (\$200.00) and the initial payment of seven thousand five hundred (\$7,500.00) dollars.

3. The defendant returned to work at Lockheed Martin on September 18, 2008, and was informed by his manager that he would have to resign his position or be terminated. The defendant tendered his resignation, effective at 6:00 PM on September 17. A copy of the defendant's resignation letter and Lockheed Martin's acceptance of the defendant's resignation is attached hereto as Exhibit B.

4. Attached hereto as Exhibit C is a letter from the defendant addressed to the Sentencing Court describing the defendant's current situation.

5. As a result of the termination of his employment, the defendant may be unable to pay the remaining seven thousand five hundred (\$7,500.00) dollars of the fine.

6. The termination of his employment constitutes a substantial change in the defendant's circumstances.

7. The defendant is requesting that his fine be reduced from fifteen thousand (\$15,000.00) dollars to seven thousand five hundred (\$7,500.00) dollars.

WHEREFORE, the defendant respectfully requests that his sentence be modified by reducing the fine.

By:

MPM3235

Mark P. Much, Esq.
341 West Baltimore Avenue
Media, PA 19063
Attorney Number 60043
Phone: (610) 565-9750

CERTIFICATE OF SERVICE

I hereby certify that on the date set forth below, I caused to be served upon the following a true and correct copy of the foregoing Motion for Continuance of Sentencing Hearing to be served upon the following: .

Honorable Legrome D. Davis
VIA FACSIMILE 1-267-299-5076

Tyler Newby, A.U.S.A.
Via Tyler.Newby@usdoj.gov

Floyd J. Miller, A.U.S.A.
Via Floyd.Miller@usdoj.gov

Antonio Maicco
Via Antonio-Maiocco@paep.uscourts.gov

FILED
SEP 23 2008
MICHAEL E. KUNZ, Clerk
By _____ Dep. Clerk

Date: 5-23-08

MPM3235

Mark P. Much, Esq
342 West Baltimore Avenue
Media, PA 19063
Attorney Number 60043
Phone: 610-565-9750
Fax: 610-565-9450
Email: markpmuch@verizon.net

UNITED STATES DISTRICT COURT

Eastern

District of

Pennsylvania

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

V.

AN DUC DO

Case Number: 07-577-1

USM Number:

Mark P. Much, Esq.

Defendant's Attorney

THE DEFENDANT:

☒ pleaded guilty to count(s) One and Two☐ pleaded nolo contendere to count(s) _____
which was accepted by the court.☐ was found guilty on count(s) _____
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

| <u>Title & Section</u> | <u>Nature of Offense</u> | <u>Offense Ended</u> | <u>Count</u> |
|--|--------------------------------------|----------------------|--------------|
| 18 U.S.C. 371 | Conspiracy | 5/25/05 | 1 |
| 17 U.S.C. 506(a)(1)© 18 U.S.C. 2319(d)(2) | Criminal infringement of a copyright | 5/25/05 | 2 |

The defendant is sentenced as provided in pages 2 through 6 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.☐ The defendant has been found not guilty on count(s) _____☐ Count(s) _____ ☐ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

A TRUE COPY CERTIFIED TO FROM THE RECORD

DATED: 9/17/08ATTEST: [Signature]DEPUTY CLERK, UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

Date of Imposition of Judgment

Signature of Judge

Legrome D. Davis, United States District Court Judge

Name and Title of Judge

Date

DEFENDANT: An Duc Do
CASE NUMBER: 07-577

PROBATION

The defendant is hereby sentenced to probation for a term of :

3 YEARS

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of placement on probation and at least two periodic drug tests thereafter, as determined by the court.

- ☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ☐ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of probation that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

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CASE NUMBER: 07-577

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DEFENDANT: An Duc Do
CASE NUMBER: 07-577

ADDITIONAL PROBATION TERMS

The defendant is to serve 400 hours of Community Service. The defendant is to submit to 3 drug test the first is to be taken 15 days from date of sentencing and the remaining are to be determined by the Probation Officer.

DEFENDANT: AN DUC DO
CASE NUMBER: 07-577-1

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

| | <u>Assessment</u> | <u>Fine</u> | <u>Restitution</u> |
|---------------|-------------------|-------------|--------------------|
| TOTALS | \$ 200 | \$ 15,000 | \$ |

- ☐ The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.
- ☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

| <u>Name of Payee</u> | <u>Total Loss*</u> | <u>Restitution Ordered</u> | <u>Priority or Percentage</u> |
|----------------------|--------------------|----------------------------|-------------------------------|
|----------------------|--------------------|----------------------------|-------------------------------|

| | | |
|---------------|------------|------------|
| TOTALS | \$ _____ 0 | \$ _____ 0 |
|---------------|------------|------------|

- ☐ Restitution amount ordered pursuant to plea agreement \$ _____
- ☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).
- ☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:
- ☐ the interest requirement is waived for the ☐ fine ☐ restitution.
- ☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

DEFENDANT: AN DUC DO
CASE NUMBER: 07-577-1

ADDITIONAL TERMS FOR CRIMINAL MONETARY PENALTIES

The defendant is to pay \$7,500.00 immediately and the remaining amount is to be paid in \$100.00 a month installments. The \$200.00 special assessment fee is due immediately.

DEFENDANT: AN DUC DO
CASE NUMBER: 07-511-1

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A ☒ Lump sum payment of \$ 7500 due immediately, balance due
- ☐ not later than _____, or
- ☐ in accordance ☐ C, ☐ D, ☐ E, or ☐ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☒ Payment in equal monthly (e.g., weekly, monthly, quarterly) installments of \$ 100 over a period of 3 (e.g., months or years), to commence 30 (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☐ Special instructions regarding the payment of criminal monetary penalties:

THE DEFENDANT SHALL MAKE PAYMENTS FROM ANY WAGES HE MAY EARN IN PRISON IN ACCORDANCE WITH THE BUREAU OF PRISONS' INMATE FINANCIAL RESPONSIBILITY PROGRAM. ANY PORTION OF THE FINE OR ASSESSMENT THAT IS NOT PAID IN FULL AT THE TIME OF RELEASE FROM IMPRISONMENT SHALL BECOME A CONDITION OF SUPERVISED RELEASE, WITH PAYMENTS MADE AT A RATE OF NOT LESS THAN \$200 PER MONTH

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.



An Do <an.duc.do@gmail.com>

RE: Resignation

Harmon, Paul M <paul.m.harmon@lmco.com>
To: an.duc.do@gmail.com

Fri, Sep 19, 2008 at 4:12 PM

An,

With regret I accept your resignation from Lockheed Martin effective September 17, 2008.

Good luck in future,

Paul M. Harmon

Software Engineering Manager
Common Training Instrumentation Architecture
Lockheed Martin Simulation, Training & Support
321-235-7591

From: An Do [<mailto:ado@ideorlando.org>]
Sent: Wednesday, September 17, 2008 3:56 PM
To: Harmon, Paul M
Subject: Resignation

Paul,

I would like to resign from Lockheed Martin effectively 6PM on Wednesday, September 17, 2008.

Thank you,

An

C

Legrome D. Davis
6614 U.S. Courthouse
601 Market Street
Philadelphia, PA 19106-1510

Dear Judge Davis,

Your honor, I'm writing this letter to inform you that I have resigned from Lockheed Martin on Wednesday, September 17th, 2008.

As I arrived in Orlando, FL that Wednesday, I went straight into work. Little did I know that my manager, Paul Harmon, knew what had happen to me. He came to know of the entire story from some electronic news website.

I told him that it was the truth and I wanted to know what my options are. He told me that I can resign or Lockheed Martin will terminate me. I decided that the correct choice was to resign since a termination would look bad on my work history.

I am going to be writing a check with the amount of \$7,500 to give to the probation officer that will be assigned to me in Orlando, FL. Since I am now unemployed, I would only like ask if you can reconsider lowering the fine amount that was imposed on me at sentencing.

An official resignation document will take me a while to get from HR. In the mean time, included is my resignation email to my manager, Paul Harmon, and his reply of acceptance. There is also an employment verification number (1-866-562-2362) – the code for Lockheed Martin is 11102. I recently checked and they still have me (SS#: 210-70-4632) listed as active. It may take some time for me to be listed as resigned.

Respectfully,

An Do