

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

**CRIMINAL MINUTES - SENTENCING AND JUDGMENT**

(      Amended      )

Priority ☒  
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JS-5/JS-6 ☒  
JS-2/JS-3 ☒  
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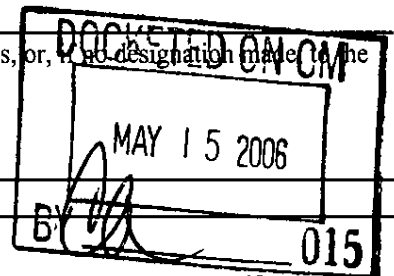
Case No. CR 05-1034 CW Date April 12, 2006

Present: The Honorable CARLA M. WOEHRLE  
D. THOMAS 06-23 Brian Hoffstadt  
Deputy Clerk Court Reporter/Recorder, Tape No. Assistant U.S. Attorney

Defendant MICHAEL FOUSSE Counsel for Defendant Philip Deitch Retd. DFPD Panel x Interpreter None

**PROCEEDINGS: SENTENCING AND JUDGMENT**

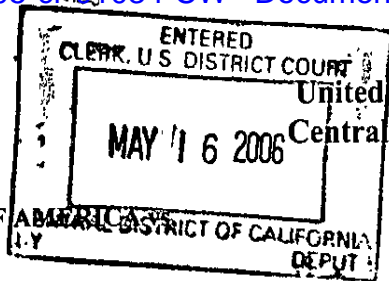
- ☒ Refer to Judgment and Probation/Commitment Order; signed copy attached hereto.      See below for sentence.
- Imprisonment for      years/months on each of counts
- Count(s)      concurrent/consecutive to count(s)
- Fine of \$      is imposed on each of count(s) concurrent/consecutive.
- Execution/Imposition of sentence as to imprisonment only suspended on count(s) 1
- Confined in jail-type institution for      to be served on consecutive days/weekends commencing
- 2 year Probation imposed
- consecutive/concurrent to count(s)
- under the usual terms & conditions (see back of Judgment/Commitment Order) and the following additional terms and conditions, under the direction of the Probation Office:
- Perform      hours of community service.
- Serve      in a CCC/CTC.
- ☒ Pay \$1,000 (\$50 monthly) fine amounts & times determined by P/O.
- Make \$ restitution in amounts & times determined by P/O.
- Participate in a program for treatment of narcotic/alcohol addiction.
- Pay any fine imposed by this sentence & that remains unpaid at commencement of community supervision. Comply with rules/regulations of BICE, if deported not return to U.S.A. illegally and upon any reentry during period of supervision report to the nearest P/O within 72 hours.
- Other conditions:
- Pursuant to Section 5E1.2(e), all fines are waived, including costs of imprisonment & supervision. The Court finds the defendant does not have the ability to pay.
- ☒ Pay \$ ----- per count, special assessment to the United States for a total of \$ 25.00
- Imprisonment for months/years and for a study pursuant to 18 USC
- with results to be furnished to the Court within days/months whereupon the sentence shall be subject to modification. This matter is set for further hearing on
- Government's motion, all remaining count(s)/underlying indictment/information, ordered dismissed.
- Defendant informed of right to appeal.
- ORDER sentencing transcript for Sentencing Commission.      Processed statement of reasons.
- ☒ Bond exonerated      upon surrender      upon service of
- Execution of sentence is stayed until 12 noon,
- at which time the defendant shall surrender to the designated facility of the Bureau of Prisons, or, if no designation made to the U.S. Marshal.
- Defendant ordered remanded to/released from custody of U.S. Marshal forthwith.
- Issued Remand/Release #
- Present bond to continue as bond on appeal.      Appeal bond set at \$
- ☒ Filed and distributed judgment. Issd JS-3. ENTERED.
- Other



Initials of Deputy Clerk BT 20

cc:

P SEND ENT JS-3



UNITED STATES OF AMERICA

Docket No. CR 05-01034 (CW)

Defendant MICHAEL J. FOUSSE

Social Security No. 1 1 8 1

## JUDGMENT AND PROBATION/COMMITMENT ORDER

In the presence of the attorney for the government, the defendant appeared in person on this date.

MONTH	DAY	YEAR
4	12	06

COUNSEL

☒ WITH COUNSEL

PHILIP DEITC (Appointed)

(Name of Counsel)

PLEA

☒ GUILTY, and the court being satisfied that there is a factual basis for the plea.☐ NOLO  
CONTENDERE☐ NOT  
GUILTY

FINDING

There being a finding/verdict of ☒ GUILTY, defendant has been convicted as charged of the offense(s) of:  
 17 U.S.C. § 506(a)(B), 18 U.S.C. § 2319(c)(3)) Class A Misdemeanor: Criminal Infringement of a Copyright

JUDGMENT  
AND PROB/  
COMM  
ORDER

The Court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the Court, the Court adjudged the defendant guilty as charged and convicted and ordered that:

It is ordered that the defendant shall pay to the United States a special assessment of \$ 25.00, which is due immediately.

It is Ordered that the Defendant shall pay to the United States a total fine of \$1,000. The fine shall be paid in installments of \$50 during the term of probation beginning 30 days after the date of this judgment.

The defendant shall comply with General Order No. 01-05;

Pursuant to the Sentencing Reform Act of 1984, it is the judgment of the Court that the defendant, Michael John Fousse, is hereby placed on probation on the Single-Count Information for a term of two years under the following terms and conditions:

1. The defendant shall comply with the rules and regulations of the U.S. Probation Office and General Order 318;
2. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, not to exceed eight tests per month, as directed by the Probation Officer;
3. During the period of community supervision the defendant shall pay the special assessment and fine in accordance with this judgment's order pertaining to such payment;
4. As directed by the Probation Officer, the defendant shall apply monies received from income tax refunds, lottery winnings, inheritance, judgments and any anticipated or unexpected financial gains to the outstanding court-ordered financial obligation;

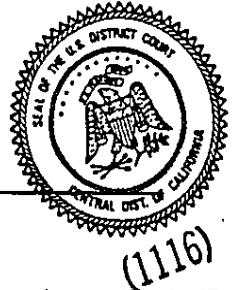
USA vs. MICHAEL J. FOUSSE

Docket No.: CR 05-01034 CW

In addition to the special conditions of supervision imposed above, it is hereby ordered that the Standard Conditions of Probation and Supervised Release within this judgment be imposed. The Court may change the conditions of supervision, reduce or extend the period of supervision, and at any time during the supervision period or within the maximum period permitted by law, may issue a warrant and revoke supervision for a violation occurring during the supervision period.

April 21, 2006  
Date

Carla M. Woehrle  
CARLA M. WOHRLE  
UNITED STATES MAGISTRATE JUDGE



It is ordered that the Clerk deliver a copy of this Judgment and Probation/Commitment Order to the U.S. Marshal or other qualified officer.

Sherri R. Carter, Clerk

April 21, 2006  
Filed Date

By Donna Thomas  
Donna Thomas, Deputy Clerk

The defendant shall comply with the standard conditions that have been adopted by this court (set forth below).

#### STANDARD CONDITIONS OF PROBATION AND SUPERVISED RELEASE

While the defendant is on probation or supervised release pursuant to this judgment:

1. The defendant shall not commit another Federal, state or local crime;
2. the defendant shall not leave the judicial district without the written permission of the court or probation officer;
3. the defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month;
4. the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
5. the defendant shall support his or her dependents and meet other family responsibilities;
6. the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;
7. the defendant shall notify the probation officer at least 10 days prior to any change in residence or employment;
8. the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician;
9. the defendant shall not frequent places where controlled substances are illegally sold, used, distributed or administered;
10. 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;
11. 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 by the probation officer;
12. the defendant shall notify the probation officer within 72 hours of being arrested or questioned by a law enforcement officer;
13. 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;
14. 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 conform the defendant's compliance with such notification requirement;
15. the defendant shall, upon release from any period of custody, report to the probation officer within 72 hours;
16. and, for felony cases only: not possess a firearm, destructive device, or any other dangerous weapon.

☐ The defendant will also comply with the following special conditions pursuant to General Order 01-05 (set forth below).

**STATUTORY PROVISIONS PERTAINING TO PAYMENT AND COLLECTION OF FINANCIAL SANCTIONS**

The defendant shall pay interest on a fine or restitution of more than \$2,500, unless the court waives interest or unless the fine or restitution is paid in full before the fifteenth (15<sup>th</sup>) day after the date of the judgment pursuant to 18 U.S.C. §3612(f)(1). Payments may be subject to penalties for default and delinquency pursuant to 18 U.S.C. §3612(g). Interest and penalties pertaining to restitution, however, are not applicable for offenses completed prior to April 24, 1996.

If all or any portion of a fine or restitution ordered remains unpaid after the termination of supervision, the defendant shall pay the balance as directed by the United States Attorney's Office. 18 U.S.C. §3613.

The defendant shall notify the United States Attorney within thirty (30) days of any change in the defendant's mailing address or residence until all fines, restitution, costs, and special assessments are paid in full. 18 U.S.C. §3612(b)(1)(F).

The defendant shall notify the Court through the Probation Office, and notify the United States Attorney of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay a fine or restitution, as required by 18 U.S.C. §3664(k). The Court may also accept such notification from the government or the victim, and may, on its own motion or that of a party or the victim, adjust the manner of payment of a fine or restitution-pursuant to 18 U.S.C. §3664(k). See also 18 U.S.C. §3572(d)(3) and for probation 18 U.S.C. §3563(a)(7).

Payments shall be applied in the following order:

1. Special assessments pursuant to 18 U.S.C. §3013;
2. Restitution, in this sequence:
  - Private victims (individual and corporate),
  - Providers of compensation to private victims,
  - The United States as victim;
3. Fine;
4. Community restitution, pursuant to 18 U.S.C. §3663(c); and
5. Other penalties and costs.

**SPECIAL CONDITIONS FOR PROBATION AND SUPERVISED RELEASE**

As directed by the Probation Officer, the defendant shall provide to the Probation Officer: (1) a signed release authorizing credit report inquiries; (2) federal and state income tax returns or a signed release authorizing their disclosure and (3) an accurate financial statement, with supporting documentation as to all assets, income and expenses of the defendant. In addition, the defendant shall not apply for any loan or open any line of credit without prior approval of the Probation Officer.

The defendant shall maintain one personal checking account. All of defendant's income, "monetary gains," or other pecuniary proceeds shall be deposited into this account, which shall be used for payment of all personal expenses. Records of all other bank accounts, including any business accounts, shall be disclosed to the Probation Officer upon request.

The defendant shall not transfer, sell, give away, or otherwise convey any asset with a fair market value in excess of \$500 without approval of the Probation Officer until all financial obligations imposed by the Court have been satisfied in full.

These conditions are in addition to any other conditions imposed by this judgment.

USA vs. MICHAEL J. FOUSSEDocket No.: CR 05-01034 CW**RETURN**

I have executed the within Judgment and Commitment as follows:

Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_

Defendant noted on appeal on \_\_\_\_\_

Defendant released on \_\_\_\_\_

Mandate issued on \_\_\_\_\_

Defendant's appeal determined on \_\_\_\_\_

Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_

at \_\_\_\_\_

the institution designated by the Bureau of Prisons, with a certified copy of the within Judgment and Commitment.

United States Marshal

By \_\_\_\_\_

Date \_\_\_\_\_

Deputy Marshal

**CERTIFICATE**

I hereby attest and certify this date that the foregoing document is a full, true and correct copy of the original on file in my office, and in my legal custody.

Clerk, U.S. District Court

By \_\_\_\_\_

Filed Date \_\_\_\_\_

Deputy Clerk

**FOR U.S. PROBATION OFFICE USE ONLY**

Upon a finding of violation of probation or supervised release, I understand that the court may (1) revoke supervision, (2) extend the term of supervision, and/or (3) modify the conditions of supervision.

These conditions have been read to me. I fully understand the conditions and have been provided a copy of them.

(Signed) \_\_\_\_\_  
Defendant

Date \_\_\_\_\_

\_\_\_\_\_  
U. S. Probation Officer/Designated Witness

Date \_\_\_\_\_

## NOTICE PARTY SERVICE LIST

Case No. CR05-01034-CW Case Title USA v. Michael FousseTitle of Document JUDGMENT

	Atty Stlmnt Officer
	BAP (Bankruptcy Appellate Panel)
	Beck, Michael J (Clerk, MDL Panel)
<input checked="" type="checkbox"/>	BOP (Bureau of Prisons)
	CA St Pub Defender (Calif. State PD)
	CAAG (California Attorney General's Office - Keith H. Borjon, L.A. Death Penalty Coordinator)
	Case Asgmt Admin (Case Assignment Administrator)
	Catterson, Cathy (9 <sup>th</sup> Circuit Court of Appeal)
	Chief Deputy Admin
	Chief Deputy Ops
	Clerk of Court
	Death Penalty H/C (Law Clerks)
	Dep In Chg E Div
	Dep In Chg So Div
<input checked="" type="checkbox"/>	Fiscal Section
	Intake Supervisor
	Interpreter Section
	PIA Clerk - Los Angeles (PIALA)
	PIA Clerk - Riverside (PIAED)
	PIA Clerk - Santa Ana (PIASA)
<input checked="" type="checkbox"/>	PSA - Los Angeles (PSALA)
	PSA - Riverside (PSAED)
	PSA - Santa Ana (PSASA)
	Schnack, Randall (CJA Supervising Attorney)
	Statistics Clerk
	Stratton, Maria - Federal Public Defender

	US Attorneys Office - Civil Division -L.A.
	US Attorneys Office - Civil Division - S.A.
	US Attorneys Office - Criminal Division -L.A.
	US Attorneys Office - Criminal Division -S.A.
	US Bankruptcy Court
<input checked="" type="checkbox"/>	US Marshal Service - Los Angeles (USMLA)
	US Marshal Service - Riverside (USMED)
	US Marshal Service -Santa Ana (USMSA)
<input checked="" type="checkbox"/>	US Probation Office (USPO)
	US Trustee's Office
	Warden, San Quentin State Prison, CA

<b>ADD NEW NOTICE PARTY</b> (if sending by fax, mailing address must also be provided)	
Name:	
Firm:	
Address (include suite or floor):	
*E-mail:	
*Fax No.:	

\* For CIVIL cases only

<b>JUDGE / MAGISTRATE JUDGE (list below):</b>	

Initials of Deputy Clerk BT