



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

ROY K. ALTMAN

UNITED STATES DISTRICT JUDGE

February 27, 2024

The Honorable Carlton W. Reeves, Chair
United States Sentencing Commission
One Columbus Circle, N.E.
Washington, DC 20002-8002
Attention: Public Affairs

Dear Chair Reeves and esteemed members of the Sentencing Commission,

Thank you for inviting me to speak with you. I was as surprised as anyone to discover that I use non-5K departures about as much as any judge in the country. I was surprised because *even* I use them only infrequently—typically in one of two situations: when the defendant’s criminal-history category significantly over- or under-states his (or her) actual criminal record; and when the defendant is suffering from a significant mental or physical impairment that distinguishes him (or her) from the vast majority of other defendants I see. I use departures (other than 5K) in these situations because I think they add a layer of transparency (and therefore fairness) to the sentencing process that’s sometimes missing in § 3553. To the extent that disparity in sentencing between similarly situated offenders continues to be an issue, I fear that eliminating these departures will only exacerbate that problem.

At the same time, as I’ve suggested, I only rarely use even these provisions and can see the benefits of streamlining the sentencing process by allowing judges to consider deficiencies in the defendant’s criminal-history computation (along with his mental or physical disabilities) *only* in the context of § 3553. And, since I almost never use any *other* departure provisions, I tend to agree that *those* (at least) are probably superfluous and can be discarded. I hope my comments have been helpful to you, and I look forward to answering your questions as best I can.

Sincerely,

A handwritten signature in black ink, consisting of a large, stylized initial 'R' followed by a cursive 'K' and 'Altman'.

Roy K. Altman