

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

UNITED STATES OF AMERICA :  
 :  
 v. : CRIMINAL ACTION  
 :  
 : NO. 1:05-CR-044-CC  
 MANI CHULPAYEV :

**GOVERNMENT'S MOTION FOR A DOWNWARD DEPARTURE  
FROM THE APPLICABLE GUIDELINE RANGE**

Comes now the United States, through David E. Nahmias, United States Attorney, and Robert McBurney, Assistant, and in accordance with Section 5K1.1 of the Sentencing Guidelines and Title 18, United States Code, Section 3553(e), files this Motion for a Downward Departure From the Applicable Guideline Range.

1. SENTENCING OVERVIEW

On July 11, 2005, defendant Chulpayev entered a guilty plea in the above-styled matter. The indictment to which he pled guilty alleged that Chulpayev and others conspired to steal vehicles, alter the vehicles' identification numbers (VINs), and then resell the vehicles. Chulpayev specifically pled guilty to seventeen counts of possessing motor vehicles with altered VINs with the intent to resell the vehicles, in violation of 18 U.S.C. § 2321. Chulpayev is scheduled to be sentenced on November 1, 2005. According to his Presentence Report ("PSR"), Chulpayev's total offense level is 24, he has a criminal history category of III, and his custody guideline range is 63 to 78 months.

## 2. COOPERATION

Chulpayev has a history of assisting the Government. In the course of pleading to his racketeering case in the Eastern District of New York, Chulpayev cooperated against his co-conspirators and for that received considerable consideration. Of course, this experience did not cleanse Chulpayev of his errant ways, as he again found himself in trouble with Federal authorities in the Northern District of Georgia in the instant case. Nonetheless, Chulpayev promptly sat down with the FBI to discuss his role and the role of others in the stolen car conspiracy. Through his information, agents were able to more fully identify and ultimately apprehend two other participants in the racket. Chulpayev also agreed early on to testify at trial if necessary.

In addition, Chulpayev assisted the FBI in Atlanta in securing a case against a felon in possession of a firearm (a case which was ultimately dismissed because of an adverse Supreme Court ruling). Finally, he and two of his co-conspirators from the auto theft ring worked with the FBI here and in South Carolina in securing a conviction against a woman who attempted a murder-for-hire scheme. Chulpayev testified at the woman's trial and, according to federal prosecutors, was a credible, critical witness for the prosecution.

## 3. RECOMMENDATION

In light of defendant Chulpayev's cooperation in this case and in the two other matters discussed above, the Government is

recommending to this Court that his sentence be reduced pursuant to § 5K1.1 of the Sentencing Guidelines. His assistance has been meaningful and should permit this Court to impose a sentence below the suggested guideline range.

Specifically, the Government recommends a downward departure that would leave the defendant at **level 19, with a range of 37-46 months.**<sup>1</sup>

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For these reasons, the United States respectfully requests that the Court grant this Motion for a Downward Departure from the Applicable Guideline Range for defendant Chulpayev.

Respectfully submitted,

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<sup>1</sup> The parties agree that the proper enhancement for Chulpayev's leadership role in the instant case is two levels rather than the three levels assessed in ¶ 31 of the PSR. Thus, the total requested departure, from the parties' perspective, is four levels rather than five.

