



United States v. Wazwaz

2007 | Cited 0 times | D. Minnesota | November 8, 2007

MEMORANDUM OPINION AND ORDER

I. INTRODUCTION

This matter is before the undersigned United States District Judge pursuant to Raed Yassin Wazwaz's ("Defendant") Motion to Correct Presentence Report [Docket No. 262] ("Def's Mot."). For the reasons set forth below, Defendant's Motion is denied.

II. DISCUSSION

Defendant requests that the Court "correct or modify paragraph 69 of the revised Presentence Report by eliminating the finding that Mr. Wazwaz used sophisticated means and deleting the enhancement of two points for use of sophisticated means." Def's Mot. Defendant contends that the correction is necessary because the application of the enhancement set forth in the Pre-Sentencing Report ("PSR") is inconsistent with this Court's decision not to apply the enhancement in calculating the Defendant's offense level for sentencing.

The PSR reflects the judgment of the presentence investigator on the applicability of the Federal Sentencing Guidelines to Defendant's case. This Court independently decides whether or not to follow the recommendation of the presentence investigator on sentencing issues. The recommendation in the PSR regarding sophisticated means does not lack factual foundation and reflects the judgment of the investigator. Accordingly, the PSR is accurate. There is no need to alter the PSR to be consistent with the Court's ultimate decision on enhancement because there are no collateral consequences associated with the inclusion of the sophisticated means enhancement in the PSR. The Court's decision to reject the recommended enhancement in sentencing Defendant is clearly reflected in the Judgment and Commitment.

III. CONCLUSION

Based upon the foregoing, and all the files, records, and proceedings herein, IT IS HEREBY ORDERED that Defendant's Motion be DENIED.

