

March 9, 2019, 7:02 AM EST

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## Manafort's wheelchair (and other factors) might have helped

/ Updated March 9, 2019, 7:17 AM EST

By Danny Cevallos

White privilege.

That's what some [critics](#) are saying about Paul Manafort's lenient 47-month sentence, handed down by Judge T. S. Ellis on Thursday in the U. S. District Court for the Eastern District of Virginia.

The U.S. Probation Department calculated Manafort's sentencing range under the federal Sentencing Guidelines at 235-293 months, or 19.6-24.4 years. The prosecution agreed and recommended the same "Guidelines" sentence.

But Ellis disagreed and handed down a comparatively light sentence: 188 months lower than the low end of the guidelines range.

White privilege? Maybe. But Manafort's race did not have the same measurable effect on his sentence as did other factors: his wealth, age and health.

The federal Sentencing Guidelines do not allow a judge to consider race as a factor. But they do permit the judge to consider age and health in certain circumstances.

Age and health are not ordinarily [relevant](#) in determining whether a lower sentence is warranted. But, if a defendant is uniquely physically [impaired](#) or of advanced [age](#), a judge has the authority to determine an appropriate sentence.

At the age of 69, Manafort has a remaining life expectancy of 14.98 years, according to the actuarial life [tables](#) of the Social Security Administration. Studies also show that each year in prison produces a 15.6 percent increase in the odds of death for parolees, or a 2-year [decline](#) in life expectancy for each year served in prison.

Manafort wisely appeared at his sentencing in a wheelchair, frailties on full display. (His lawyers have said he is facing "[significant](#)" and [worsening](#) health issues.) It's almost a trope from mob movies, but putting on a show of a defendant's poor health at sentencing might subconsciously persuade a judge that the Bureau of Prisons is not the safest place for a sick or elderly offender.

Any sentence over five years, according to the data, is therefore a life sentence for Manafort. Ellis also may have considered that the rates of [recidivism](#) for offenders over 60 is just [16](#) percent. (Of course, the counter to that argument is that Manafort just committed new crimes just months ago, so he falls within that 16 percent.)

The Guidelines do not permit a judge to consider wealth as a mitigating factor, but wealth directly and observably influences sentencing.

Wealth correlates with education and education correlates with criminality, according to statistics. About one-third of federal offenders have not completed high school. Most (about 65 percent) have only a high school degree. But only about 8 percent are [college](#) graduates like Manafort.

Education also correlates with recidivism, or re-arrest rates. This is an important factor in sentencing. Offenders with less than a high school diploma have the highest recidivism rates (60.4 percent), followed by high school graduates (50.7 percent) and those with some college (39.3 percent). College [graduates](#) like Manafort are by far the least likely to reoffend (19.1 percent).

Wealth also allows for a more robust defense. Defendants with wealth are often able to marshal more impressive letters of recommendation for the judge, because they have been in positions of influence. Greater

wealth also means more opportunity for charitable donations, which can impress a judge.

Ellis even observed on the record that Manafort had led a "otherwise blameless" life. Wealthy defendants have the ability to festoon their life résumé with good works in a way that poor defendants often cannot. Even though wealth is not a permissible consideration, it influences many other factors that have an indirect, but measurable, effect on the final sentence.

There are unquestionably racial disparities in federal sentencing. Sentences of black male offenders are generally [longer](#) than those of white male offenders. For example, according to the U.S. Sentencing Commission, black male offenders' sentences were up to 19 percent [longer](#) than those of white male offenders from 2012 to 2016. In Manafort's case, there's nothing to indicate the judge consciously considered the offender's race in meting out such a lenient sentence.

Of course, white collar crimes have long been criticized as featuring lesser sentences than street crimes. Manafort's crimes in the Eastern District of Virginia carried no mandatory minimum sentence. Additionally, the overall average sentence for fraud crimes is [35](#) months.

In the jurisdiction where Manafort was sentenced, the average fraud sentence is slightly higher than the average: [37](#) months. Manafort's case was more egregious than the average fraud case in part due to the massive dollar amounts involved, but, on the whole, fraud cases are sentenced less harshly than certain violent crimes or drug crimes, and well below Manafort's sentencing guidelines range.

By contrast, many "street" crimes do have mandatory [minimum](#) sentences, especially if a firearm or a certain quantity of drugs is involved. White collar crimes may not involve shootings or methamphetamines, but they often involve a greater financial loss to victims than a liquor store robbery.

Manafort's unusually low sentence was probably influenced in part by his age, his health, his education and his wealth.

White privilege? More likely "White Collar (Crime)" privilege.  
from: NBCNews.com

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