

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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UNITED STATES OF AMERICA,

Plaintiff,

v.

DAVID DRONE,

Defendant.  
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MEMORANDUM

03-CR-0089-C

This case is before the court on a limited remand from the Court of Appeals for the Seventh Circuit to allow the court to review the sentence imposed on defendant David Drone and advise the court of appeals whether it would impose the same sentence now that the Sentencing Guidelines have been held to be advisory and not mandatory. Having made that review, I can state that I would not change defendant's sentence.

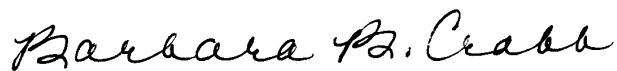
Defendant was charged with conspiracy to possess with intent to distribute heroin. He admitted at the plea hearing that he had persuaded his girl friend to smuggle a total of 5.5 grams of heroin to him while visiting him at the Federal Correctional Institution at Oxford, Wisconsin. He was found to be a career offender under U.S.S.G. § 4B1.1 because he had two prior felony convictions, one for substantial battery and one for conspiracy to

distribut~~er~~ cocaine base, and he was at least 18 when he committed the offense for which he was being sentenced. With a three-level reduction for acceptance of responsibility, his offense level was 29. His criminal history category was VI and his resulting guideline range was 151-188 months. I sentenced him at the bottom of the range. That sentence is a long one, particularly when combined as it must be with the sentence defendant was serving when he committed the crime for which I sentenced him. However, defendant's willingness to commit this crime while he was in custody is a strong indication that he is not readily deterred. His involvement of his young girl friend in his criminal activity suggests an inability to consider the effects of his actions upon others and a disregard for the consequences that will be visited upon them.

I am not persuaded that any lesser sentence would protect the community or reflect the seriousness of defendant's criminal activity. It is unfortunate that defendant faces such a long period of incarceration at his age, but he has not yet shown that he has the ability and willingness to conform his conduct to society's expectations.

Entered this 30th day of June, 2005.

BY THE COURT:

Handwritten signature of Barbara B. Crabb in black ink.

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BARBARA B. CRABB  
District Judge

