

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

JABAR REGGIE SMITH,

Defendant.

ORDER

05-cr-22-bbc

Defendant Jabar Reggie Smith has filed a motion pursuant to 18 U.S.C. § 3582, seeking a reduction of the sentence imposed upon him on August 10, 2005 by the Honorable John C. Shabaz. In Judge Shabaz's absence for medical leave, I am handling his cases, including this one.

At sentencing, defendant's total adjusted offense level was 37 and his criminal history category was III. He was sentenced to a term of 294 months, which was in the high middle of the sentencing guideline range of 262 to 327 months. Under the amended guidelines, his base offense level is 36, plus two levels for possession of a firearm in relation to his crime, less three levels for acceptance of responsibility. With an adjusted offense level of 35 and a criminal history category of III, defendant has an advisory guideline range of 210 to 262

months.

Defendant asks for a sentence of 210 months, at the bottom of the amended sentencing range. The government argues for a proportional decrease to the high middle of the amended range, or 235 months.

Defendant qualifies for the two-level reduction in his range. Defendant was a significant distributor of crack cocaine. However, I believe that a sentence of 210 months is sufficient to protect the community, provide defendant the opportunity for participation in rehabilitative programs and achieve parity with the sentences of similarly situated defendants.

Defendant has not asked for a sentence below the guideline range and I am not inclined to give him one under whatever authority I have under Kimbrough v. United States, 128 S. Ct. 558 (2007).

ORDER

IT IS ORDERED that the judgment and commitment order signed on August 10, 2005 is AMENDED to provide that the sentence imposed on defendant Jabar Reggie Smith is reduced to 210 months. In all other respects, the judgment and commitment order

remains as signed on August 10, 2005.

Entered this 5th day of January, 2009.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge