

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

UNITED STATES OF AMERICA

ORDER

v.

04-cr-90-wmc

JOHN NEWCOMB

In 2004, defendant John Newcomb was convicted of manufacturing methamphetamine, 21 U.S.C. § 841(a)(1), and related charges, *id.* §§ 841(c)(2), 843(a)(6), and sentenced to serve a total of 180 months' imprisonment. Citing a proposed amendment to the United States Sentencing Guidelines, Newcomb has now filed a motion to stay his sentence and for immediate release from prison on his own personal recognizance. The motion will be denied for reasons set forth briefly below.

On April 30, 2014, the United States Sentencing Commission submitted to Congress an amendment to the federal sentencing guidelines that reduces the guidelines applicable to drug trafficking offenses. Specifically, this proposed amendment (Amendment 782) reduces by two the offense levels assigned in the Drug Quantity Table, resulting in lower guideline ranges for most drug trafficking offenses. On July 18, 2014, the Sentencing Commission voted to give retroactive effect to the proposed amendment. The proposed amendment will go into effect on November 1, 2014, unless Congress acts to modify or reject it.

Only if Congress lets the amendment stand, beginning November 1, 2014, would eligible incarcerated offenders have authorization to seek and, as importantly, would this

court have the authority to modify or reduce a sentence pursuant to 18 U.S.C. § 3582(c)(2). Offenders whose requests are granted by the courts after that date would not be eligible for release until November 1, 2015.

Assuming that the amendment goes into effect on November 1, 2014, the court will then begin the process of determining the offenders eligible for reductions in their sentences, as well as the reduction that applies to each sentence, and notifying each affected inmate. As Newcomb acknowledges in his motion, actual releases cannot begin until November 1, 2015. His motion to stay his sentence and for release on his own personal recognizance, while creative, must therefore be denied. The court will, however, refer Newcomb's request for relief to the United States Probation Office for this district so that he can be included on a list of inmates who may qualify for a retroactive sentence reduction. For further information, Newcomb may write to the Federal Defender's Office, 22 E. Mifflin Street, Suite 1000, Madison, Wisconsin 53703.

ORDER

IT IS ORDERED that defendant John Newcomb's motion to stay his sentence and for release on his own personal recognizance (dkt. # 133) is DENIED.

Entered this 1st day of August, 2014.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge