

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

ANTOINE BRANCH,

Defendant.

ORDER

01-cr-110-bbc

Defendant Antoine Branch has filed a motion pursuant to 18 U.S.C. § 3582, seeking a reduction of the amended sentence imposed upon him by the Honorable John C. Shabaz on April 1, 2003. During Judge Shabaz's medical leave, I am handling the cases assigned to him, including this one.

Defendant was sentenced in 2002 and resentenced on April 1, 2003, on the government's motion for a reduced sentence. At the resentencing, defendant's total adjusted offense level was 33 and his criminal history category was VI. The court reduced the adjusted offense level to 31 to recognize his substantial assistance to the government and sentenced him to 232 months, which was near the top of the reduced sentencing guideline range of 188 to 235 months.

Under the amended guidelines, defendant's base offense level is 32, less three levels for acceptance of responsibility. With an offense level of 29 and a criminal history category of VI, defendant has an advisory guideline range of 151 to 188 months.

Defendant has asked for a sentence of 151 months, at the bottom of the amended sentencing range. The government argues for a proportional decrease to near the top of the amended range.

Defendant qualifies for the two-level reduction in his range. The amount of drugs for which he was held responsible is near the low middle of the applicable drug quantity range. I would be inclined to reduce his sentence to the bottom of the new range were it not for the substantial evidence in the presentence report of his significant criminal history and his numerous convictions for drug possession. I believe that a sentence at the middle of the guidelines range is both necessary and sufficient to carry out the statutory purposes of sentencing, which include protecting the community, providing defendant an opportunity for drug treatment and achieving 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 amended judgment and commitment order signed on April 1, 2003 is AMENDED again to provide that the sentence imposed on defendant Antoine L. Branch is reduced to 168 months. In all other respects, the judgment and commitment order remains as signed on April 1, 2003.

Entered this 2nd day of January, 2009.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge