

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

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UNITED STATES OF AMERICA,

Plaintiff,

v.

ARTURO GARCIA PARRA and  
MAGDALENA CORREA,

Defendants.  
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MEMORANDUM

02-CR-0092-C

This case is before the court on a limited remand from the Court of Appeals for the Seventh Circuit, for the purpose of determining whether this court would have imposed the same or different sentences on defendants had it known that the sentencing guidelines were merely advisory. Counsel for defendants and for the government have submitted sentencing memoranda on the subject.

After reading the memoranda and reviewing the presentence reports and the court of appeals' opinion, I can state with confidence that I would have imposed the same sentences on both defendants at the time of their original sentencing had I known that the sentencing guidelines are advisory and not binding.

Defendant Magdalena Parra's drug involvement was significant; she was responsible for 1.56 kilograms of powder cocaine; she possessed two weapons and it was not clearly improbable that the guns were connected to the drug offense; she was a manager or supervisor of the group involved in the drug distribution; and she testified untruthfully at trial about such things as why the handwriting in the drug ledger was hers and why she had large amounts of cash in her purse. Defendant is not a young woman; she has raised a family and held a number of jobs. She appears to be a strong and demanding manager.

Given the amount of drugs for which defendant Parra was responsible, her managerial role in the offense and her unwillingness to take responsibility for her criminal activity, I believe that the 121-month sentence that I imposed on defendant in April 2003 was an appropriate one. The sentence takes into consideration the nature and circumstances of the offense and the history and characteristics of the defendant. In addition, it reflects the seriousness of the offense and provides protection for the public.

Defendant Arturo Garcia Parra received a sentence three months longer than the minimum mandatory sentence to which he was subject under 21 U.S.C. § 841(b)(1)(B)(ii)(II). This sentence was a fair response to his involvement in the drug conspiracy, which was considerably less than that of Magdalena Correa, but still significant. His sentencing guidelines were lower because he did not testify at trial and therefore never ran the risk of receiving additional points for obstruction of justice; he was not considered

3a manager or supervisor; and he did not possess a gun.

In his memorandum, defendant's counsel argues for a sentence less than the mandatory minimum because defendant met all the requirements of U.S.S.G. § 5C1.2, the safety valve, with the exception of providing information to law enforcement and as to that criterion, defendant had no information to give. He cites 18 U.S.C. § 3353(5) for the proposition that a court can give a safety valve reduction if the defendant has truthfully provided the government with all the information and evidence he has about the offense but has no other relevant or useful information to provide.

Defendant was denied the safety valve adjustment at his 2003 sentencing because he did not provide a complete and truthful statement about his own criminal conduct, not because he was unable to give information about other criminal activity. I was not persuaded in 2003 that he qualified for a safety valve reduction and I am not persuaded now.

Taking into account defendant Parra's responsibility for 1.56 kilograms of cocaine, his willingness to participate in the conspiracy and to serve as a lookout, his previous sale of cocaine and his effort at collecting a drug debt on at least one occasion, I believe that a sentence of 63 months is an appropriate one. It is sufficient to protect the community and

to reflect the seriousness of defendant's involvement in the conspiracy to distribute drugs.

Entered this 27th day of April, 2005.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge