

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

UNITED STATES OF AMERICA,
Plaintiff,

ORDER

02-cr-80-wmc

v.

JERRY EZZELL,
Defendant.

Defendant Jerry Ezzell has filed a motion pursuant to 18 U.S.C. § 3582, seeking a reduction of the sentence entered on February 12, 2003, which will be granted. When originally sentenced in 2003, Judge Shabaz gave the defendant a term of imprisonment of 188 months, which was at the top of the sentencing guideline range of 151 to 188 months. Under the amended guidelines, the defendant has an advisory guideline range of 130 to 162 months.

Defendant asks for a sentence of 130 months, the bottom of the amended sentencing range. The government argues the sentence should be proportionally similar within the amended guideline range, meaning at the top of this range -- 162 months.

The government has the better of the argument. Given defendant's lengthy criminal history, the quantity of drugs involved in the original conspiracy (which fell above the middle of the range) and use of firearms throughout the period of that conspiracy, a sentence at the top of the guideline range was amply justified. Moreover, the Court may consider post-sentencing conduct under 1B1.10, Application Note 1(B)(iii). During the defendant's most recent period of incarceration, he has received 15 incident reports. Three of those have been for possessing/using alcohol; three have been

for possessing/using drugs; and one was for counterfeiting a document. For all of those reasons, I am persuaded that a sentence at the top of the amended guideline range is reasonable and sufficient to protect the community, provide defendant the opportunity for substance abuse counseling and other rehabilitative programs, including vocational training, and achieve parity with the sentences of similarly situated offenders.

ORDER

IT IS ORDERED that the judgment and commitment order entered on February 12, 2003, is AMENDED to provide that the sentence imposed on defendant Jerry Ezzell is reduced to 162 months. In all other respects, the judgment and commitment order remains as entered.

Entered this 23rd day of January, 2015.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge