

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

UNITED STATES OF AMERICA,

Plaintiff,

MEMORANDUM and ORDER

03-CR-065-S-01

v.

AMIN W. WILLIAMS,

Defendant.

Presently pending before the Court in the above entitled matter is a limited remand from the United States Court of Appeals for the Seventh Circuit to determine whether this Court would impose defendant's original sentence had the sentencing guidelines been merely advisory. In U.S. v. Paladino, 401 F. 3d 471, 484 (7th Cir. 2005), the Court advised as follows:

Upon reaching its decision (with or without a hearing) whether to resentence, the District Court should either place on the record a decision not to resentence with an appropriate explanation," *United States v. Crosby, supra*, 397 F. 3d at 1920, or inform this Court of its desire to resentence the defendant.

The Court has considered the views of counsel, the advisory sentencing guidelines, the purposes of sentencing and the reasons for its original sentence, determining that it would impose the same sentence.

As justification for its original sentence the Court considered the following facts:

When defendant was arrested he was in possession of a stolen Smith and Wesson .44 magnum revolver which was equipped with a scope and loaded with six rounds of ammunition. He was serving a term of probation at the time of his arrest. Two of the defendant's prior felony convictions were for crimes of violence.

The Court determined defendant's offense level to be 24. It was increased two levels because the firearm in his possession was stolen. This total was decreased three levels for his acceptance of responsibility. Based on this offense level of 28 and defendant's criminal history category of six, the advisory guideline imprisonment range is 92-115 months. The Court sentenced defendant to 115 months to be served consecutive to the term of imprisonment imposed in Dane County, Wisconsin, Circuit Court, Case No. 02CM004308.

The imposition of the original sentence considered those suggestions presented both then and now by counsel: the seriousness of the offenses, adequate deterrence to criminal conduct, protecting the public and providing the defendant adequate structure necessary to adhere to a life without crime. Had the guidelines been advisory, this Court would have imposed the same sentence believing it to be reasonable considering the defendant's criminal conduct, and sufficient to hold defendant accountable and to protect the community from further criminality on his part.

Pursuant to 18 U.S.C. § 3553 the Court may consider the defendant's character and history. Plaintiff was raised in a very rough environment where most of the adults in his life were involved in criminal activity. Plaintiff suffers from mental illness. At the time of his sentencing he was complying with a medication treatment regimen consisting of anti-psychotropic and anti-depressant drugs. These factors are counterbalanced by the defendant's past criminal conduct and his continued violation of the law.

Considering all these factors, a sentence at the top of the advisory guidelines is reasonable and necessary for the statutory purposes of sentencing.

For the reasons stated this Court advises the United States Court of Appeals for the Seventh Circuit that it would impose the defendant's original sentence had the sentencing guidelines been merely advisory.

Entered this 28th day of June, 2005.

BY THE COURT:

/s/

JOHN C. SHABAZ
District Judge