

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

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UNITED STATES OF AMERICA,

Plaintiff,

MEMORANDUM and ORDER

v.

03-CR-098-S-03

03-CR-133-S-01

RYAN K. JONES,

Defendant.

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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 (7<sup>th</sup> 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.

Defendant has not submitted his comments on remand. The Court has considered the response of the government, 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:

Defendant is accountable for methamphetamine and pseudoephedrine in an amount equivalent to 1,415.10 kilograms of marijuana. Defendant had a managerial role in the conspiracy to manufacture methamphetamine. He recruited and exercised decision making authority over at least three participants, Megan Bautch, Shawn Bautch, Tony Tschirley as well as John Gerow, Loretta Knusalla and Hope Klimek and he claimed a larger share of the proceeds. Defendant was engaged in this course of criminal activity for almost a year with numerous drug transactions and incidents of manufacturing. He persisted in this conduct while on pretrial release in two related cases. Defendant provided his methamphetamine recipe to another Dane County Jail inmate in close proximity to him when he pled guilty in this matter.

The Court determined defendant's offense level to be 32. It was increased three levels because of defendant's managerial role. Based on this offense level of 35 and defendant's criminal history category of six, the advisory guideline imprisonment range is 292-365 months. The Court sentenced defendant to two consecutive terms of 164 months for a total of 328 months.

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 and

protecting the public. 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. Defendant has submitted no evidence of his character or history for the Court to consider although the Presentence Report suggests he began using drugs at a very early age, lacked parental guidance and his behavioral problems hindered his school performance.

Considering all these factors, a sentence near the middle of the advisory guidelines is reasonable, responsible 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 3rd day of June, 2005.

BY THE COURT:

/s/

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JOHN C. SHABAZ  
District Judge