

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

RANDY COLLINS,

Defendant.

ORDER

03-cr-22-bbc

Defendant Randy Collins has filed a motion pursuant to 18 U.S.C. § 3582, seeking a reduction of the sentence imposed upon him on July 30, 2003 by the Honorable John C. Shabaz. In Judge Shabaz's absence for medical leave, I am handling his cases, including this one.

At sentencing, defendant's total adjusted offense level was 35 and his criminal history category was I. He was sentenced to a term of 200 months, which was near the top of the sentencing guideline range of 168 to 210 months. Under the amended guidelines, his base offense level is 34, plus two levels for possession of a dangerous weapon, less three levels for acceptance of responsibility. With an offense level of 33 and a criminal history category of I, defendant has an advisory guideline range of 135 to 168 months.

Defendant asks for a sentence of 135 months, at the bottom of the amended sentencing range. The government argues for a proportional decrease to near the top of the amended range, or 160 months.

Defendant qualifies for the two-level reduction in his range. The amount of drugs for which he was held responsible falls at the top of the applicable drug quantity range, which is a reason to give him a sentence at the same point of the guideline sentencing range. However, given defendant's lack of criminal history and his efforts at employment, I believe that a lower sentence would be sufficient to protect the community, provide defendant the opportunity for participation in rehabilitative programs and achieve 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 judgment and commitment order signed on August 4, 2003, is AMENDED to provide that the sentence imposed on defendant Randy Collins is reduced to 145 months. In all other respects, the judgment and commitment order remains

as signed on August 4, 2003.

Entered this 5th day of January, 2009.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge