

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

TOMMY LOVE,

Defendant.

ORDER

03-cr-63-bbc

Defendant Tommy Love has filed a motion pursuant to 18 U.S.C. § 3582, seeking a reduction of the sentence imposed upon him on October 6, 2003. Defendant's original total adjusted offense level was 31; he was sentenced to 141 months, which was six months above the bottom of the sentencing guideline range of 135-168 months. Under the amended guidelines, his base offense level is 32, reduced by three levels for acceptance of responsibility. With an offense level of 29 and a criminal history category of III, defendant has an advisory guideline range of 108-135 months.

Defendant asks for a sentence of 108 months, at the bottom of the amended sentencing range. The government argues for a proportional decrease to slightly above the bottom of the amended range, or 113 months.

I am persuaded that in this case a reduction to the bottom of the range is justified as a response to the sentencing discrepancy between crack and powder cocaine offenses. 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). The reduced sentence will still carry out the statutory purposes of sentencing. It will continue to reflect the severity of defendant's crime, protect the community and achieve parity with the sentences of similarly situated defendants.

ORDER

IT IS ORDERED that the judgment and commitment order entered on October 6, 2003 is AMENDED to provide that the sentence imposed on defendant Tommy Love is reduced to 108 months. In all other respects, the judgment and commitment order remains as entered on October 6, 2003.

Entered this 22d day of April, 2008.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge