

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

CHARLES GOKEY,

Defendant.

ORDER

04-cr-115-bbc

Defendant Charles Gokey has filed a motion pursuant to 18 U.S.C. § 3582, seeking a reduction of the sentence imposed upon him on April 5, 2006 by the Honorable John C. Shabaz. Now that Judge Shabaz has taken senior status, I am handling his cases.

Defendant's original total adjusted offense level was 32. He was sentenced to 210 months, which was at the top of the sentencing guideline range of 168 to 210 months. Under the amended guidelines, his base offense level is 30. This is also his adjusted offense level because he does not qualify for any upward or downward adjustments. With a total offense level of 30 and a criminal history category of IV, 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 168 months, at the top of the amended range.

In reviewing defendant's record and taking into account the discrepancy between the guidelines for crack and powder cocaine, which are ameliorated by the guideline amendment but not eliminated, I am persuaded that a sentence at the middle of the guidelines will still carry out the statutory purposes of sentencing, which include holding defendant accountable for his serious criminal conduct, reflecting the severity of his crime, protecting the community and achieving 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 by Judge Shabaz on April 5, 2006 is AMENDED to provide that the sentence imposed on defendant Charles Gokey is reduced to 151 months. In all other respects, the judgment and commitment order

remains as signed on April 5, 2006.

Entered this 29th day of January, 2009.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge