

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

DURON LEE,

Defendant.

ORDER

05-cr-70-jcs

Defendant Duron Lee has filed a motion pursuant to 18 U.S.C. § 3582, seeking a reduction of the amended sentence imposed upon him on October 20, 2005. In Judge Shabaz's absence for medical leave, I am handling his cases, including this one.

Defendant's original total adjusted offense level was 25; he was sentenced to 140 months (80 months on the drug charge, plus a mandatory 60-month sentence under 18 U.S.C. § 924(c)). The 80-month sentence was near the top of the sentencing guideline range of 70 to 87 months. Under the amended guidelines, his base offense level is 23, reduced by three levels for acceptance of responsibility. With a total offense level of 20 and a criminal history category of III, defendant has an advisory guideline range of 57 to 71 months.

Defendant asks for a sentence of 57 months, at the bottom of the amended sentencing range for the drug charge. The government argues for a proportional decrease to the upper middle of the amended range, or 65 months.

At the time defendant was sentenced, Judge Shabaz noted the likelihood of recidivism and need to protect the community that led to his sentencing defendant near the top of the guidelines. My own review of the presentence report confirms Judge Shabaz's concerns. Defendant is addicted to controlled substances and willing to arm himself despite being a felon. However, recognizing the discrepancy between the crack and powder cocaine guidelines, I believe that a 60-month sentence on the drug combined with the mandatory 60-month sentence on the gun charge will carry out the statutory purposes of sentencing, which include reflecting the severity of defendant's 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 imposed on defendant Duron Lee on October 20, 2005 is AMENDED to provide that the sentence is reduced to

120 months (60 months on count 1 of the indictment, to be followed by a consecutive 60-month sentence on count 2 of the indictment). In all other respects, the judgment and commitment order remains as signed on October 20, 2005.

Entered this 18th day of June, 2008.

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