

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

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UNITED STATES OF AMERICA,

Plaintiff,

v.

JIMMY THOMAS,

Defendant.

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ORDER

06-cr-101-jcs

Defendant Jimmy Thomas has filed a motion pursuant to 18 U.S.C. § 3582, seeking a reduction of the amended sentence imposed upon him on September 29, 2006. During Judge Shabaz's medical leave, I am handling the cases assigned to him, including this one.

Defendant's original total adjusted offense level was 29; he was sentenced to 132 months, which was near the top of the sentencing guideline range of 108 to 135 months. Under the amended guidelines, his base offense level is 30, reduced by three levels for acceptance of responsibility. With an offense level of 27 and a criminal history category of III, defendant has an advisory guideline range of 87 to 108 months.

Defendant asks for a sentence of 87 months, at the bottom of the amended sentencing range. The government argues for a proportional decrease to the top or near the

top of the amended range, or 105 months.

I am persuaded that in this case a reduction to the middle of the range is justified as a response to the sentencing discrepancy between crack and powder cocaine offenses. The reduced sentence will still carry out the statutory purposes of sentencing, which include reflecting the severity of defendant's crime (as well as his lengthy criminal history that dates back to the age of 14), 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 amended judgment and commitment order entered on September 26, 2006 is AMENDED to provide that the sentence imposed on defendant Jimmy Thomas is reduced to 97 months. In all other respects, the judgment and

commitment order remains as entered on September 29, 2006.

Entered this 9th day of May, 2008.

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