

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

DE'ALLO GORDON,

Defendant.

ORDER

06-cr-103-bbc

Defendant De'Allo Gordon has filed a motion pursuant to 18 U.S.C. § 3582, seeking a reduction of the sentence imposed upon him on November 3, 2006 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 III. He was sentenced to a term of 230 months, which was in the low middle of the sentencing guideline range of 210 to 262 months. Under the amended guidelines, his base offense level is 36, less three levels for acceptance of responsibility. With an adjusted offense level of 33 and a criminal history category of III, defendant has an advisory guideline range of 168-210 months.

Defendant asks for a sentence of 168 months, at the bottom of the amended sentencing range. The government argues for a proportional decrease to the low middle of the amended range, or 184 months.

Defendant qualifies for the two-level reduction in his range. The amount of drugs for which he was responsible falls near the bottom of the applicable drug quantity range, which is a reason to give him a sentence at the same point of the guideline sentencing range, particularly in light of his efforts to turn his life around (as Judge Shabaz noted in sentencing him the first time) and his supportive family. I believe that a sentence of 175 months 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 November 3, 2006 is AMENDED to provide that the sentence imposed on defendant De'Allo Gordon is reduced to 175 months. In all other respects, the judgment and commitment order remains

as signed on November 3, 2006.

Entered this 5th day of January, 2009.

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