

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

ABDUL HARRIEL,

Defendant.

ORDER

07-cr-34-jcs

Defendant Abdul Harriel has filed a motion pursuant to 18 U.S.C. § 3582, seeking a reduction of the amended sentence imposed upon him on December 6, 2007. 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 23; he was sentenced to 92 months, which was eight months above the bottom of the sentencing guideline range of 84 to 105 months. Under the amended guidelines, his base offense level is 26, reduced by three levels for acceptance of responsibility and another two levels for substantial assistance. With an offense level of 21 and a criminal history category of V, defendant has an advisory guideline range of 70-87 months.

Defendant asks for a sentence of 70 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 76 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, which include reflecting the severity of defendant's crime, protecting the community and achieving parity with the sentences of similarly situated defendants.

ORDER

IT IS ORDERED that the amended judgment and commitment order entered on December 6, 2007 is AMENDED to provide that the sentence imposed on defendant Abdul Harriel is reduced to 70 months. In all other respects, the judgment and commitment order remains as entered on December 6, 2007.

Entered this 23d day of April, 2008.

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