

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION**

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 10-00162-12-CR-W-FJG
	)	
ANTAR ROBERTS,	)	
	)	
Defendant.	)	

**GOVERNMENT’S SENTENCING MEMORANDUM**

The United States of America, through Assistant United States Attorney Brent Venneman, in anticipation of sentencing scheduled for November 21, 2011, at 1:00pm, respectfully provides the Court with the following overview of the Government’s sentencing recommendation which includes the following:

- (a) Procedural History
- (b) Impact of the plea agreement.
- (c) Sentencing Guidelines calculations.
- (d) Sentencing factors under 18 U.S.C. § 3553(a).
- (e) The government’s specific sentencing recommendation.

**A. Procedural History**

On May 26, 2010, a federal grand jury for the Western District of Missouri returned an indictment charging Roberts in Count One with conspiracy to distribute 5 kilograms or more of cocaine and 50 grams or more of cocaine base in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(A), and 846.

Defendant Roberts pleaded guilty on October 28, 2010, to the crime of conspiracy to distribute 500 grams or more of cocaine and 5 grams or more of cocaine base in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(B), and 846, that being the lesser included offense of Count One of the Indictment. Because a notice of sentence enhancement based upon Roberts' prior conviction for distribution of a controlled substance was filed by the government on October 19, 2010, Roberts' mandatory minimum sentence is not less than 10 years' imprisonment.

**B. Impact of the plea agreement.**

The plea agreement (P.A.) allowed Roberts to plead guilty to an offense resulting in a mandatory minimum sentence of 10 years rather than a mandatory minimum sentence of 20 years that would have resulted under Count One of the Indictment charging a violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(A), and 846, upon the filing of the sentence enhancement for Roberts' prior conviction for distribution. Additionally, the plea agreement anticipated that Roberts' offense level would be calculated based upon drug quantity thresholds for crack cocaine cases pursuant to the Fair Sentencing Act of 2010. Accordingly, the parties agreed to drug quantities specifically attributable to Roberts; those being 266 grams of crack cocaine and 670 grams of cocaine. (P.A. par. 10(c))

The government agreed that the defendant would qualify for a three-point reduction for acceptance of responsibility under § 3E1.1(a). The presentence report agreed with this analysis.

Finally, under the plea agreement, the government is bound to request a sentence within the calculated guidelines range of 151-188 months but the defendant may request a sentence below the guidelines range but not less than the statutory mandatory minimum of 120 months.

**D. Sentencing Guidelines calculations.**

The final Presentence Investigation Report (PSR) calculated the defendant's offense level under revised U.S.S.G. § 2D1.1 and the resulting base offense level is 32. Neither party has objected to the base offense level or the guidelines range of 151 - 188 months as calculated in the Presentence Investigation Report. (PSR par. 129)

**E. Sentencing factors under 18 U.S.C. § 3553(a).**

To properly sentence the defendant, the Court must deduce a "reasonable" sentence which is presumed but not required to be within the advisory sentencing guidelines, and takes into account the sentencing factors described in 18 U.S.C. § 3553(a). *United States v. Farmer*, 647 F.3d 1175, 1178-9 (8th Cir. 2011). In this case, the factors listed in §3553 as to this defendant can be summarized as follows:

1. Nature and Circumstances of the Offense.

The parties have agreed to a total of 266 grams of crack cocaine and 670 gram of cocaine as the amount that is directly attributable to Defendant Roberts for his role in this drug conspiracy as a distributor of cocaine and crack cocaine. Because Roberts and the government have agreed to the specific amount of drugs for which Roberts is accountable, a further role reduction under U.S.S.G. § 3B1.2 is unwarranted since he is being held accountable only for the drugs that are attributable to him. Although Roberts did not distribute as much cocaine and crack cocaine as some members of

this drug trafficking organization, his role cannot accurately be characterized as a minor or minimal participant as suggested in defendant's sentencing memorandum.

2. History and Characteristics of the Defendant.

The defendant has numerous arrests and convictions including four prior felony convictions. Roberts felony convictions include a Jackson County, Missouri, conviction from 1999 for sale of a controlled substance for which he served a 120-day sentence followed by two years of probation. (PSR par. 67) Subsequently, Roberts was convicted in a 2001 case from this district for being a felon in possession of a firearm for which he served a sentence of 46 months imprisonment followed by three years of supervised release. (PSR par. 72) Following a violation of supervised release, Roberts was sentenced to an additional 7 months imprisonment. (PSR par.72)

3. Seriousness of the Offense / Promote Respect for the Law / Just Punishment.

The guidelines range of 151 - 181 months imprisonment adequately reflects the level of culpability attributable to this defendant's participation in the conspiracy and would nevertheless provide for a lengthy and just punishment.

4. Deterrence and Protection of the Public.

This defendant has shown a propensity to commit crimes associated with drugs and drug trafficking including unlawful use of weapons. A sentence within the proposed guidelines range will serve to deter similar prospective criminal activity and protect the public.

5. Effectively Provide Defendant With an Opportunity to Rehabilitate.

This defendant would be afforded the same opportunity to participate in classes and programs offered by the Bureau of Prisons as other similarly situated defendants.

**F. The government's specific sentencing recommendation.**

The government recommends a sentence of 151 months which is the low-end of the sentencing guidelines range, and is consistent with the sentencing factors of 18 U.S.C. § 3553(a).

Respectfully submitted,

Beth Phillips  
United States Attorney

By */s/Brent Venneman*

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing was delivered on November 15, 2011, to the CM-ECF system of the United States District Court for the Western District of Missouri for electronic delivery to all counsel of record:

Ms. Lisa Nouri  
2526 Holmes  
Kansas City, MO 64108

*/s/ Brent B. Venneman*

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Brent Venneman  
Assistant United States Attorney