

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

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. 10-00162-14-CR-W-FJG
)	
RONNELL A. BROWN,)	
)	
Defendant.)	

GOVERNMENT’S SENTENCING MEMORANDUM

The United States of America, through Assistant United States Attorney Brent Venneman, in anticipation of sentencing scheduled for November 22, 2011, 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) Supervised release violation.
- (f) The government’s specific sentencing recommendation.

A. Procedural History

On May 26, 2010, a federal grand jury for the Western District of Missouri returned a seventeen-count indictment charging Brown 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 Brown pleaded guilty on October 28, 2010, to an Information charging him with use of a communication facility to facilitate the distribution of cocaine in violation of 21 U.S.C. §§ 843(b) & (d). The statutory maximum sentence for this offense is not more than 4 years' imprisonment.

B. Impact of the plea agreement.

The plea agreement (P.A.) allowed Brown to plead guilty to an offense with a significantly lower range of punishment than Count One of the Indictment which charged a violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(A), and 846, and carried a range of punishment of not less than ten years and not more than life imprisonment. Additionally, the plea agreement includes an agreed upon amount of more than 100 but not more than 200 grams of cocaine that is attributable to Brown. (P.A. par. 10(b)).

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 parties are bound to request a sentence within the calculated guidelines range of 30 -37 months. There is no agreement between the parties on the sentence for Brown's violation of supervised release in Case No. 01-00127-01-CR-W-ODS.

C. Sentencing Guidelines calculations.

The final Presentence Investigation Report (PSR) calculated the defendant's offense level based upon the agreed upon drug totals and the resulting base offense level is 18. (PSR par. 51) Neither party has objected to the base offense level or the guidelines range of 30 - 37 months as calculated in the Presentence Investigation Report. (PSR par. 119)

D. 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 more than 100 grams of cocaine but less than 200 grams of cocaine as the amount that is directly attributable to Defendant Brown for his role in this offense. As reflected by the plea agreement, Brown was a lower-level participant in a conspiracy that was responsible for well-over 30 kilograms of cocaine.

2. History and Characteristics of the Defendant.

Defendant Brown has a lengthy criminal record for firearms and narcotics related-offenses that includes convictions for robbery, drug trafficking, and possession with intent to distribute more than 500 grams of cocaine from this district in 2001. Brown served a sentence of 94 months imprisonment and five years of supervised release. (PSR par. 77). Brown was released from custody to begin his period of supervised release on July 22, 2008.

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

The guidelines range of 30 - 37 months imprisonment reflects the level of culpability attributable to this defendant's participation in the conspiracy and would provide for a 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 at the high-end of 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.

E. Supervised release violation.

Brown began his 60 month period of supervised release upon his release from Bureau of Prisons on July 22, 2008. Since then, Brown has received four violation reports including a violation for committing the instant offense. The government recommends that the Court impose the statutory maximum sentence for this violation which is 36 months imprisonment pursuant to 18 U.S.C. § 3583(e)(3). The guidelines range for this violation is 33-36 months pursuant to U.S.S.G. §7B1.4(a)(1).

F. The government's specific sentencing recommendation.

The government recommends a sentence of 37 months which is the high-end of the sentencing guidelines range to address the sentencing factors of 18 U.S.C. § 3553(a). Additionally, the government recommends that this sentence run consecutively to a sentence of 36 months for the supervised release violation in accord with U.S.S.G. §7B1.3(f).

Respectfully submitted,

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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 17, 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:

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/s/ Brent B. Venneman

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