

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

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. 10-00162-22-CR-W-FJG
)	
ADRIAN U. BARRETT,)	
)	
Defendant.)	

GOVERNMENT'S SENTENCING MEMORANDUM

Comes now the United States of America, by David M. Ketchmark, Acting United States Attorney, and Brent Venneman, Assistant United States Attorney, both for the Western District of Missouri, and files its sentencing memorandum in anticipation of Defendant Adrian Barrett's sentencing that is scheduled for Thursday May 24, 2012.

A. Summary

The parties in this case are jointly recommending a sentence of 120 months imprisonment which is consistent with the plea agreement where the parties agree to recommend a guidelines range sentence. Barrett's guidelines range is 120 months because the statutory mandatory minimum sentence of 120 months overrides the guidelines range which was determined to be 84 to 105 months. A sentence of 120 months is sufficient but not greater than necessary to address Barrett's role as a mid-level crack cocaine distributor within Shawn Hampton's drug trafficking organization.

B. Procedural History

On May 26, 2010, a federal grand jury indicted Shawn Hampton and his associates, including Adrian Barrett, for conspiracy to distribute more than 5 kilograms of cocaine and more than 50 grams of cocaine base. Barrett pleaded guilty on February 11, 2011, to the lesser-included offense of conspiracy to distribute more than 500 grams of cocaine and more than 5 grams of cocaine base in violation of Title 21 U.S.C. §§ 841(a)(1), (b)(1)(B), and 846. Because an enhancement for a prior drug conviction (pursuant to 21 U.S.C. §§ 841 and 851) has been filed, the statutory range of punishment is not less than 10 years and not more than life imprisonment.

C. Impact of the plea agreement

The plea agreement (P.A.) allowed Barrett to plead guilty to an offense resulting in a mandatory minimum sentence of ten years rather than the statutory mandatory sentence of life imprisonment 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. Additionally, the plea agreement anticipated that Barrett's 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 175 grams of crack cocaine as the drug quantity specifically attributable to Barrett resulting in a base offense level 28. (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 parties are bound to request a sentence that is within the calculated guidelines range of 120 months.

D. Sentencing Guidelines calculations

The final Presentence Investigation Report (PSR) calculated the defendant's base offense level under revised U.S.S.G. § 2D1.1(c)(6) as 28 which reflects the 175 grams of crack cocaine that is directly attributable to Defendant Barrett. This is the base offense level that has, likewise, been agreed upon by the parties in the written plea agreement. After receiving a three-level reduction for acceptance of responsibility Barrett's total offense level is 25 resulting in a guidelines range of 120 months, the statutory minimum sentence, that overrides the sentencing range of 84- 105 months as calculated in the Presentence Investigation Report. (PSR par. 110).

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 an amount of 175 grams of crack cocaine that is directly attributable to Barrett. This amount reflects that he was a mid-level participant in the conspiracy with Shawn Hampton and his associates.

2. History and Characteristics of the Defendant.

Barrett has a serious felony record that includes three separate cases from Jackson County, Missouri, involving drugs, including a distribution case and a trafficking case. According to the PSR, Barrett was not required to serve a prison sentence for any of these prior drug cases even though he accrued numerous violations while on probation in each of these cases.

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

The proposed guidelines range of 120 months imprisonment adequately reflects the level of culpability attributable to this defendant's participation in the conspiracy and would provide for a lengthy and just punishment.

4. Deterrence and Protection of the Public.

This defendant and his associates in this conspiracy have shown a propensity to commit crimes associated with drug trafficking. A sentence of 120 months 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. The government's specific sentencing recommendation.

The government recommends a sentence of 120 months which is the sentencing guidelines range, and is consistent with the sentencing factors of 18 U.S.C. § 3553(a), and reflects the plea agreement between the parties.

Respectfully submitted,

David M. Ketchmark
Acting 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 May 15, 2012, 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.

/s/ Brent Venneman

Brent Venneman
Assistant United States Attorney