

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

UNITED STATES OF AMERICA,)	
Plaintiff,)	
)	
vs.)	Case No. 10-00162-21-CR-W-FJG
)	
DOROTHEA CAIN,)	
Defendant.)	

DEFENDANT’S MOTION FOR DOWNWARD VARIANCE

COMES NOW, David H. Johnson, attorney for Defendant Dorothea Cain, and hereby Moves the Court for Downward Variance, for a sentence of 70-87 months from the sentencing range of 151-188 proposed by the PSI.

The factors upon which the Defendant urges the Court to grant variance include the following:

1. The Defendant’s cognitive functioning is Borderline to Extremely Low Range of Intelligence.
2. Defendant suffers from Antisocial Personality Disorder, a fully recognized, diagnosable, and debilitating mental illness, for which the Defendant is not responsible for having. Defendant simply has that disorder, without her fault.
3. Defendant has lived a very challenging, dangerous, gang-infested lifestyle, has supported herself and her children as best as she could, given her cognitive functioning limitations, her Antisocial Personality Disorder, her educational and employment challenged history.

4. Defendant has been under treatment with psychotropic medication while in the custody of the United States Marshall since her return from Mental Evaluation by the staff at Federal Medical Center, Carswell. With appropriate supervision and medication upon release from custody, while under Supervised Release, the Defendant should not pose a significant threat to society.

In support of her request for Variance, Defendant refers the Court to her Sentencing Memorandum, filed concurrently herewith.

Defendant requests the Court to grant Variance, and sentence the Defendant to a sentence that fulfills the requirements of 18 USC 3553 c, from 151-188 months to a sentence range of 70-87 months.

The sentence of 70-87 months is sufficient to punish the Defendant for her involvement in this conspiracy to distribute controlled substances, given the actual participation of the Defendant taking into consideration the quantity attributable to the other members of the conspiracy, the diminished mental capacity of the Defendant, and the psychological mental illness of the Defendant.

The Sentencing Range of 70-87 months is sufficient but not more than necessary to rehabilitate the Defendant. Specifically, the sentencing range will provide the Government through the Bureau of Prisons sufficient but not more than necessary time in which to assist the Defendant in developing tools and skill necessary to manage her Antisocial Personality Disorder, complete intensive drug treatment program for her extensive substance abuse history, and provide Defendant with marketable skills, given her diminished capacity, and the resultant lack of educational and prior employment history.

The Sentencing Range of 70-87 months is sufficient but not more than necessary to provide deterrent to others that may be so inclined to traffic in controlled substances. Given the actual participation by the Defendant in this conspiracy, the quantity of drugs involved, the proposed sentencing range is appropriate deterrent. The prior criminal history of the Defendant is adequately represented by the proposed Criminal History Category, given that her actual criminal history (without the enhancement for Career Offender) is 8 points, Criminal History Level IV.

Lastly, the Defendant is 42 years of age. Defendant has numerous physical, mental and psychological issues that with time can be ameliorated, such that society will be adequately protected by incarceration of the Defendant by a sentence within the range of 70-87 months.

Defendant refers the Court to her Sentencing Memorandum, filed concurrently herewith, for further support of this Request for Variance.

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CERTIFICATE OF SERVICE

I hereby certify that, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which sent notification to the attorneys for the Government and co-defendants.

/s/ David H. Johnson
David H. Johnson