

United States District Court

For the District of Oregon

United States Courthouse

620 S.W. Main

Portland, Oregon 97205

Chambers of

James A. Redden

United States District Judge

October 22, 1990

The Honorable William W. Wilkins, Jr.
Chairman
United States Sentencing Commission
1331 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

Dear Judge Wilkins:

In response to your request, the judges of this court feel very strongly that:

- 1) The role in the offense guidelines (3B1.1 and 3B1.2) should be expanded to afford the court greater discretion in imposing less onerous sanctions on those offenders who are only peripherally involved in the offense, and
- 2) The footnote in 2D1.1 which requires the court to treat each marijuana plant as the equivalent of one kilogram of marijuana in those cases in which more than 50 plants are found should be substantially modified.

Both of the above provisions require punishments that do not fit the crime.

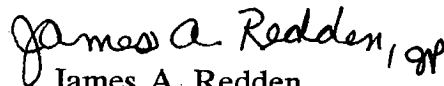
The judges of this court also endorse the recommendations made in a recent report of the Criminal Law and Probation Committee of the Judicial Conference. I am certain that you and the other members of the Commission have the report of that Committee in your possession.

We would also comment on the increasing disparity in sentencing. Although the Commission may disagree, practical experience has indicated to us that there is as much disparity today as there was prior to the passage of the Guidelines. The discretion has passed from the court to the prosecution and charge bargaining, plea bargaining and fact bargaining continue. This creates an unfortunate conflict between the United States Probation Office and both the prosecution and defense.

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This disparity occurs, in large measure, because in many instances the sentences are draconian compared to the offense charged and the record of the particular defendant. In an effort to arrive at a "just" sentence, negotiations frequently result in the complained of disparity. We believe that the system was far more just when the judges had the limited discretion, rather than the prosecutors.

Very truly yours,


James A. Redden

JAR:jp
DICTATED BUT NOT READ