

V CRJ -74/91

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
811 GRAND AVENUE
KANSAS CITY, MISSOURI 64106

Chambers of
SCOTT O. WRIGHT
District Judge

FTS 867-5012
(816) 426-5012

October 18, 1990

Honorable William W. Wilkins, Jr.
Chairman
United States Sentencing Commission
Suite 1400
1331 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

Dear Judge Wilkins:

In conjunction with the input from our Chief Probation Officer, Lewis D. Frazier, I would like to make the following suggestions for improvements in the Sentencing Guidelines:

(1) Urge the Sentencing Commission to continue to support a repeal of all mandatory minimum sentencing statutes. The concept of mandatory minimums is contrary to an overall guideline scheme and often works at opposite purposes with it. The mandatory minimums also create disparity as a result of charging decisions and plea bargain decisions by the prosecutors. The Guidelines themselves are sufficiently "tough" without the necessity of the mandatory minimum and mandatory consecutive sentences;

(2) There should be more flexibility in the Guidelines themselves that would permit more or greater latitude by the sentencing judge who is in the best position to apply the Guidelines and determine an appropriate sentence;

(3) Increase the number of offense levels, or "zones," wherein outright probation is an option. At the current time, outright probation is permissible only when the guideline range is zero to six. I would suggest that outright probation be considered an option in anything where the top of the guideline range was 12 or below;

(4) Permit the Court to have an option of changing the minimum requirement for imprisonment in the new "split" sentence from one-half the minimum term to at least one month in those options described at 5C1.1(c)(3), and (d)(2);

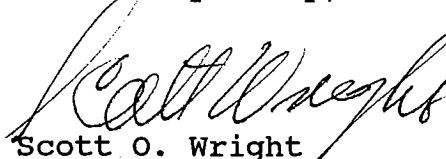
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(5) In reference to the acceptance of responsibility adjustment, permit the Court to employ a sliding scale of two to five levels of reduction, according to certain suggested standards by the Sentencing Commission, such as an automatic two-level adjustment for just entering a plea of guilty or nolo to a greater reduction for an early, voluntary termination of one's criminal conduct, restitution having been made by the time of sentencing, etc.; and

(6) Departures for substantial assistance to authorities, 5K1.1. At the present time, the Guidelines make very brief mention of what factors should go into the determination for this section to be employed. In reality, there are varying degrees of "cooperation," and since it takes a motion by the government for the Court to depart on this basis, the Commission could promulgate certain standards concerning how much of a departure one should be given, e.g., one-fifth, one-fourth, one-half, two-thirds, etc. At the present time, this is a "gray area" with very little guidance to the Court.

I want you to know that I appreciate the work you and your committee do on this Sentencing Commission. I know that it is a large task. Since I am convinced we are going to have the Sentencing Guidelines for a long time, I think we should make them as fair and practical as possible, and I believe that your committee is trying to do that. I, for one, appreciate it.

Yours very truly,

A handwritten signature in cursive script, appearing to read "Scott O. Wright".

Scott O. Wright
United States District Judge

SOW:pw