

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
POST OFFICE BOX 65
MACON, GEORGIA 31202

CHAMBERS OF
WILBUR D. OWENS, JR.
CHIEF JUDGE

March 25, 1991

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752-3491

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United States Sentencing Commission
1331 Pennsylvania Avenue
Suite 1400
Washington, DC 20004

Attention: Guidelines Comment

Gentlemen:

The Proposed Amendments to the Sentencing Guidelines have been reviewed and comments concerning several of the proposals and the options are provided.

Section 2A3.2 (Statutory Rape)

Perhaps it would be appropriate to adopt both options with a proviso of a maximum six (6) level increase in any given case. The implementation of both options would permit consideration of the age difference between the victim and defendant as well as the 14-year-old age factor for the victim.

Section 2B3.1 (Robbery)

Considering the concern that the guidelines may result in lower sentences in certain multiple robbery cases than under pre-guideline practices, the proposed revision that would add levels for additional robberies appears appropriate. Further concurrence is expressed with the proposed enhancement for 2B3.1(b)(1) and the enhancement for involvement of a weapon in a robbery. These enhancements would more adequately reflect the seriousness of the offense when a defendant robs a financial institution with a weapon.

Section 2J1.3 (Perjury)

In reviewing the proposal as to how to treat separate acts of perjury, Option 1 is favored. It would seem preferable to not group the separate acts in order to reflect the seriousness of the defendant's conduct rather than to use the grouping principle where a departure may be necessary to reflect the seriousness of the offense.

Section 4A1.1 (Criminal History)

Relative to the proposed methods of dealing with prior sentences pending appeal, Option 1 is preferable. This option appears to provide specific instructions in such cases. Option 3 for the proposed new subparagraph (f) to Section 4A1.1 provides a definite sentencing scheme to add criminal history points for "closely related" crimes of violence.

Sentencing Table

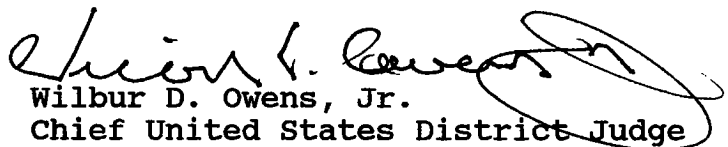
The current sentencing table with six criminal history categories appears adequate in most cases. If a new Category VII is adopted, it is suggested that 16 points rather than 20 be implemented. This would be consistent with the level differences of the present scheme. Should Category VII be implemented, it is suggested that career offenders continue to be sentenced at the Category VI level unless Category VII is otherwise applicable due to a particular defendant's record.

Section 5G1.3

Option 2 appears to be a better method to deal with the imposition of sentences of defendants who are already serving an unexpired sentence. It is preferable to take into consideration the unexpired portion of the pre-existing sentence and then impose an appropriate consecutive sentence for the two offenses combined. The instant offense would run consecutively to the extent necessary to achieve the total sentence so that a reasonable incremental punishment is imposed for the instant offense.

The opportunity to comment on the proposed amendments is appreciated.

Sincerely,


Wilbur D. Owens, Jr.
Chief United States District Judge