



United States Attorney
Eastern District of Louisiana

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January 10, 1994

The Honorable William W. Wilkins, Jr.
Chairman
United States Sentencing Commission
One Columbus Circle, N.E.
Suite 2-500, South Lobby
Washington, DC 20002-8002

RE: Proposal #32

Dear Judge Wilkins:

Our criminal justice system is based upon a premise of all or nothing. One pleads guilty and admits guilt or avails himself of all legal avenues to defend his position, and through the adversary nature of the proceeding, the truth emerges. As a prosecutor, I derive a sense of security from a belief that the system adequately protects the innocent from a mistaken conviction.

This proposal awards those who fight half-heartedly. There is no place for that in our system. How does one determine that a motion that could have been made can ethically not be made, and a benefit derived? In any case, it is already a lawyer's ethical duty not to make frivolous motions and stipulate appropriately. Why reward defendants lucky enough to have ethical lawyers or provide consolation prizes to those so unlucky as to have non-aggressive ones? This does not promote the overall goal of the fair and just administration of justice and brings into question the entire system.

Sincerely,

Robert J. Boitmann
United States Attorney

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