

February 24, 1994

U.S. Sentencing Commission
One Columbus Circle, N.E. Suite 2-500
South Lobby
Washington, D.C. 20002-8002
Attn: Public Information

Dear Public Information Specialist:

In regards to proposed amendment #18, which will disallow courts from using acquitted conduct at sentencing, except for a limited purpose of an upward departure, and only after a preponderance of evidence finding, I would like to tell this story.

My friend since approximately 1950, Gerald Winters, was convicted in the U.S.D.C. for the District of New Jersey, before Honorable Maryanne Trump Barry, for a RICO Conspiracy, RICO Enterprise, and related substantive offenses. He received both a New Law sentence of 235 months, and an Old Law sentence totalling 15 years. These sentences were ordered to run consecutively.

My friend, 'Jerry', was acquitted of several of the charges in the indictment, but at sentencing, the court made a preponderance of evidence finding using acquitted conduct to place him in the New Law. By doing this, an additional sentence of 235 months was added to his Old Law sentence.

As a long-time friend of the Winters family, a continuously employed taxpayer, and a registered voter, I strongly disagree with the courts present authority to use acquitted conduct to place my friend Jerry in the New Law. In fact, I disagree and protest that acquitted conduct can be used against anyone, post-trial (where the jury finds innocence).

Jerry's verdict was shocking; and the verdict was even more so. It was shocking that the court was able to use acquitted conduct to sentence my friend as a New Law offender, especially since the jury acquitted all other co-defendants of the RICO conspiracy. By a preponderance of evidence finding, the court found that my friend conspired with other co-defendants who themselves were found not-guilty of the RICO conspiracy. For this, he received an additional sentence of 235 months under the U.S.S.G.

Daily the news reports are full of criminals nation wide receiving only the mildest sentences. But my friend received a heavy punishment, and then additional years on top of that. Even from a conservative view point, it's hard to believe such a practice is acceptable in an American court room.

I strongly recommend that the Sentencing Commission pass proposed amendment #18. Make it retroactive: help correct some of the injustices handed out to some defendants. Faith in our judicial system disintegrates with errors and uneven sentencing. Please help to change this.

Respectfully submitted,


Carol M. Biechlin