

ARTHUR L. WALLACE III

120 EAST CONCORD
ORLANDO, FLORIDA 32801

TEL: (407) 422-2127
FAX: (407) 422-2312

February 11, 1997

Dear Commissioners...

I write regarding §5C1.2, limitation on applicability of statutory minimum sentences in certain cases, commonly referred to as the "safety valve" provision.

The guideline became effective on September 23, 1994 however it was not made retroactive. The Congress and the Commission recognized the injustice inherent in the original law, however by only allowing the safety valve to be applied to sentencings after September 23, 1994, certain individuals received excessively harsh punishments right up to that date, with no recourse.

I represented an individual named Jorge Espinal in the Middle District of Florida, Tampa Division, Case No. 93-255CRT-25B who was sentenced on April 12, 1994 to a minimum mandatory 10 years for violation of Title 21 U.S.C. § 841(a)(1) involving cocaine hydrochloride.

Mr. Espinal had a guideline exposure of 87-108 months and would have otherwise qualified for the safety valve. Since he had the misfortune of being sentenced in April, rather than after September 23, he received the excessive time by default.

Rather than rely on good fortune, I believe the commission should allow the court to decide whether or not §5C1.2 should apply to this defendant.

Should you need further information, please feel free to contact me directly.

Cordially,

Arthur L. Wallace III

Richard P. Conaboy
United States Sentencing Commission
Federal Judiciary Building
One Columbus Circle, N.E.
Washington, D.C. 20002-8002
Attention: Public Information Office

00239