

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
201 UNITED STATES COURTHOUSE
501 WEST TENTH STREET
FORT WORTH, TEXAS 76102

CHAMBERS OF
JUDGE TERRY R. MEANS

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March 20, 2001

Office of Public Affairs
United States Sentencing Commission
One Columbus Circle, N.E.
Washington, DC 20002-8002

Re: Comment on Proposed Amendment to USSG § 2L1.2

Greetings:

I believe the enhancement in § 2L1.2(b)(1) for previous conviction for an aggravated felony offense should be graduated based on a factor other than the period of imprisonment the defendant actually served for the aggravated felony. I believe the enhancement should be graduated based on the type of aggravated felony involved. For example, the approach of Option One for Subsection (b)(1)(A)(i) should be extended to Subdivisions (ii) through (iv) of Subsections (b)(1).

I say this because using the period of imprisonment the defendant actually serves for the aggravated felony will result in greater disparity between sentences. The various state and federal jurisdictions have differing sentences for the same or similar felonies and judges within those jurisdictions will have further differences between and among themselves for the same felonies. Thus, the time that a defendant serves for a felony is an inadequate guide to the seriousness of his previous offense behavior. To the extent that the sentence does reflect the seriousness of the offense behavior, the sentencing judge under § 2L1.2(b)(1) can take that into account in deciding where within the range he will sentence such defendant.

I do not believe that the enhancement in § 2L1.2(b)(1) for a

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previous conviction for an aggravated felony should take into consideration only aggravated felonies that were committed within a specified time period. A person who is in the United States illegally and who has committed a previous aggravated felony should not receive any grace for having committed the crime much earlier during his unwelcome stay in the United States.

Sincerely,

A handwritten signature in black ink, appearing to read "Terry R. Means". The signature is written in a cursive, somewhat stylized font.

Terry R. Means

TRM/dgt