

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
511 E. SAN ANTONIO, COURTROOM TWO
EL PASO, TEXAS 79901

DAVID BRIONES
JUDGE

March 16, 2001

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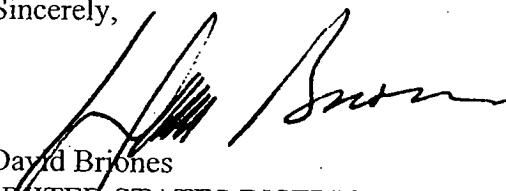
I submit these comments on the proposed changes to USSG §2L1.2, having sentenced probably more defendants for violations of 8 USC §1326 than any other judge in the United States. I am in favor of the proposed changes. I have one concern which the guidelines and the commentary failed to address.

I have the Presentence Investigation Report on an individual who was sentenced to 5 concurrent jail terms as follows: 10 years for burglary, 9 years for burglary of a vehicle, 5 years for possession of a controlled substance (user amount while in custody), 8 years for aggravated assault and 8 years on a second aggravated assault (both on jail personnel) with no serious injuries. The total time served was 8 years. As I understand the proposed guidelines, this man would be facing a 10- or 12- level increase because he served less than 10 years.

If the proposed guidelines were in effect when I sentenced this individual, I would be compelled to depart upward. The proposed commentary fails to make any reference to concurrent sentences. I invite the Commission to address concurrent sentences. I would propose that you address it in the Departure Provisions.

I also favor 15 years as the cut-off date to trigger the enhancement if the individual does not have any other felony convictions subsequent to the aggravated felony.

Sincerely,


David Briones
UNITED STATES DISTRICT JUDGE

DB:aa

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