

United States District Court

NORTHERN DISTRICT OF TEXAS
1100 COMMERCE STREET
DALLAS, TEXAS 75242

CHAMBERS OF
SENIOR JUDGE BAREFOOT SANDERS

March 20, 2001

FAX: 202-502-4699

Mr. Timothy B. McGrath

Staff Director

United States Sentencing Commission

One Columbus Circle, N.E.

Washington, D.C. 20002-8002

RE: Proposed Amendment/Your March 13, 2001 letter

Dear Mr. McGrath:

Thank you for your March 13 letter enclosing copy of Proposed Amendment to USSG §2L1.2. I appreciate the opportunity to comment.

I support the graduated offense level enhancements contained in proposed Option One, viz., new subparagraphs (A) (including proposed subsections (i) through (iv)) and (B). Given the breadth of the statutory definition of aggravated felony, this four-tiered system appropriately links the amount of enhancement to the amount of time served by a defendant for the prior aggravated felony. I also support the amendment's consideration of the type of prior aggravated felony as an additional (or alternative) basis for determining the defendant's offense level, reserving the current 16-level enhancement for only the most serious offenses.

I believe it preferable that the enhancement in Option One be graduated based on the type of aggravated felony involved rather than the amount of time served. However, that may not be practical.

I recommend that the Commission include in its amendment a specified time period beyond which a prior aggravated felony conviction would not be considered for offense level enhancement. The language of 8 U.S.C. §1101(a)(43) presents substantial consequences under the immigration statutes for an alien convicted of an aggravated felony, even for an offense committed many years ago. In my view, a period of ten years [prior to commencement of the instant offense] is sufficient for purposes of criminal sentencing for unlawful reentry or remaining in the United States.

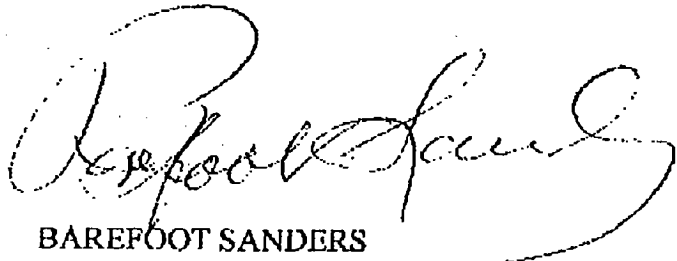
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My recommendations are based on frequent sentencing under §2L1.2. The inflexibility of the current provision often leads to sentences which are unjustly harsh.

I hope these comments will be helpful.

Sincerely yours,



BAREFOOT SANDERS

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