

United States District Court

United States Courthouse

Salt Lake City, Utah 84101

Bruce S. Jenkins

U.S. Senior District Judge

Telephone

801-524-5167

March 20, 2001

Mr. Timothy B. McGrath
Office of Public Affairs
United States Sentencing Commission
One Columbus Circle, N.E.
Washington, D.C. 20002-8002

RE: Proposed Amendment to U.S.S.G. § 2L1.2

Dear Mr. McGrath:

You asked for comment on the proposed tiered amendment relating to the offense of illegal entry, U.S.S.G. § 2L1.2.

The proposed amendment seems to indicate that if a defendant served a long time on other occasions for other transgressions he must serve a long time now for illegal entry, but for some, less than presently mandated. It is a modest improvement.

While the suggestion is largely consistent with the draconian punishment model adopted by the Congress and the Commission, one must remember that for some defendants, a long time in federal prison is less onerous, more attractive, and sometimes more profitable than returning home.

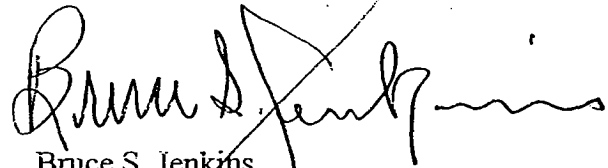
If the ultimate result is to send the miscreant home, then perhaps the sooner he be sent home, the better. There is a modicum of irony in that we prevent him from coming back by keeping him here.

It has been estimated that the cost of housing a prisoner in the federal system is about \$30,000 per year. Thus, a person convicted of illegal entry and housed for an extended period, say ten years, could cost in the neighborhood of \$300,000.

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As an alternative, I believe that the power to sentence such a defendant should be restored to the Court. Indeed, in all instances except minimum mandatory sentences, this could be accomplished simply by having guidelines be *guidelines*, and not mandates. Such would enable the court to sentence a *person* rather than a category. In matters of illegal entry, a defendant on occasion would best be sent home promptly, and the court should be empowered--as it was for some two hundred years--to make that determination on a case by case basis.

Very truly yours,

A handwritten signature in black ink, appearing to read "Bruce S. Jenkins", with a large, sweeping flourish extending from the end of the name.

Bruce S. Jenkins
United States Senior District Judge

cc: Hon. Diana E. Murphy
Hon. Orrin G. Hatch
Hon. Robert Bennett