



CHEROKEE COUNTY

75 Peachtree Street
Murphy, North Carolina 28906

(828) 837-5527 • (828) 837-9684

Commissioners
Barbara Vicknair
Dana Jones
Ernest Jones

County Manager
Randy D. Wiggins
County Attorney
R. Scott Lindsay

February 10, 2003

U. S. Sentencing Commission
Attention: Public Affairs
One Columbus Circle, N.E.
Suite 2-500
Washington, DC 2002-8002

Re: Proposed Amendment to U.S.S.G. §5G1.3

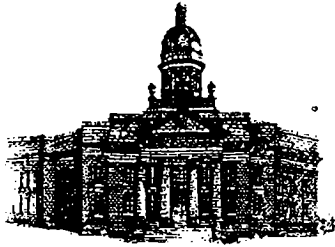
Dear Sirs:

It is my understanding that the Commission is considering giving retroactive application to the proposed amendment to U.S.S.G §5G1.3. I believe that allowing retroactive application of this proposed amendment is fair and appropriate, and I would urge the Commission to make the proposed amendment retroactive for Charles McHan, Sr.

If the proposed amendment to U.S.S.G §5G1.3 is made to apply retroactive, it is my understanding that defendants who have been denied an adjustment to the length of their sentence because of a distinction between discharged and undischarged terms, will have an opportunity to seek relief nunc pro tunc. For example, the Commission specifically disapproved of the Fourth Circuit's decision in U.S. v. McHan, 101 F.3d 1027, 1040 (4th Cir. 1996) which held that downward departure to allow an adjustment for a discharged term was based on an error of law and therefore was an abuse of discretion. Therefore, if the Commission makes the proposed amendment to U.S.S.G §5G1.3 retroactive, Charles McHan, Sr. will have the opportunity to seek relief and hopefully be able to correct an unjust punishment.

I have known Mr. McHan for many years, and I believe that he has been incarcerated long enough. Therefore, I would like to see Mr. McHan have the opportunity to seek relief from the length of his sentence by retroactive application of the proposed amendment. Also, I know other members of our community who would like for Mr. McHan to become once again an active and contributing member of Cherokee County, North Carolina.

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Thank you,

Dana H. Jones