

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

SEP 22 2011

JAMES W. WINSOR, CLERK
By: James W. Winsor
DEP CLERK

UNITED STATES OF AMERICA

PLAINTIFF

v.

Case No. 4:90-cr-00261-GTE

BILLY RAY SMITH

DEFENDANT

ORDER

The passage of the Fair Sentencing Act of 2010 and amendments to the Federal Sentencing Guidelines which may take effect on November 1, 2011 provide for retroactive consideration of reduction of sentences for certain defendants convicted of offenses involving “crack” cocaine.¹ Defendant appears to be eligible for consideration for a reduction. However, a reduction is not mandatory and must be considered by the courts on a case by case basis. Defendant is entitled to be represented by counsel.

Previously Defendant was found eligible for appointed counsel. Therefore, the Court appoints Federal Public Defender Office to represent Defendant in all further proceedings in connection with sentencing issues. Accordingly, Defendant’s appointed counsel must obtain a current executed financial affidavit from Defendant and file it with the Court within twenty (20) days from the date of this order, to demonstrate that Defendant continues to qualify for appointed counsel.

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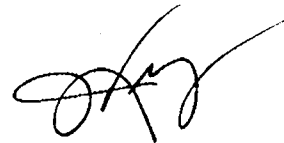
See the United States Sentencing Commission’s “Reader-Friendly” Version of the Final 2011 Guideline Amendment Implementing the Fair Sentencing Act, *available at* http://www.ussc.gov/Meetings_and_Rulemaking/Materials_on_Federal_Cocaine_Offenses/20110428_RF_Amendments_Pages.pdf

Of course, Defendant may retain counsel of his choice if he has the financial ability to do so. Defendant must inform the Court of his choice by checking the appropriate box, signing, and returning the enclosed Response to Order form within twenty (20) days of the date of this order.

To Defendant: There are many cases from the Eastern District of Arkansas where the defendant was convicted of a crack cocaine offense and may be eligible for reduction of sentence. They cannot all be handled at once. The Court is trying to be sure that cases are considered early enough so no defendant loses the full benefit of any favorable ruling. In order to do this, the Court is processing the cases according to the defendants' projected release dates. Your projected release date may be more remote than other cases, so do not be impatient if your case is not immediately reached. Counsel and the Court will make every effort to be sure that it is timely considered.

The Clerk is hereby directed to mail a copy of this Order to the defendant along with a Financial Affidavit (CJA23), a self-addressed stamped envelope, and the Response to Order form. Defendant must return the Response to Order form, and the Financial Affidavit within (20) days. A copy of this Order should be sent to the Federal Public Defender Office.

IT IS SO ORDERED this 22nd day of September, 2011.



UNITED STATES MAGISTRATE JUDGE