

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION**

UNITED STATES OF AMERICA

v.

CASE NO. 4:07cr36-RH

DEMETRIS S. BLOCKER,

Defendant.

_____ /

ORDER REDUCING THE SENTENCE

The defendant Demetris S. Blocker is serving a sentence on charges involving crack cocaine. He has moved for a sentence reduction under the First Step Act. As set out in the orders of April 25, May 13, and June 10, 2019, Mr. Blocker is eligible for a sentence reduction.

Any reduction is discretionary. In deciding whether and how much to reduce a defendant's sentence, a court may consider the sentencing factors in 18 U.S.C. § 3553(a), the nature and seriousness of the danger that a reduction would pose to any person or the community, and the defendant's post-sentencing conduct. *Cf.* U.S. Sentencing Guidelines Manual § 1B1.10 cmt. n.1(B) (2018) (indicating a

court should consider these factors in considering a reduction based on a retroactive guideline amendment).

Based on the Fair Sentencing Act's drug-quantity changes as made retroactive by the First Step Act, Mr. Blocker's minimum sentence is 10 years in prison, not 20 as before. Under the United States Sentencing Guidelines Manual in effect today, Mr. Blocker would not be a career offender; his burglary conviction would not be a career-offender predicate offense. The government concedes that it could not prove beyond a reasonable doubt that the offense involved 280 grams of crack or more. If it could not prove 280 grams or more by the greater of the evidence—the standard that applies to guideline issues—the base offense level, under today's Guidelines Manual, would be at most 30 (taking account both powder and crack), the total offense level would be at most 27, the criminal history category would be IV (because the recency points would no longer apply), and the guideline range would be at most 100 to 125 months in prison.

If, on the other hand, the government could prove by the greater weight of the evidence that the offense involved 907 grams of crack—the full amount suggested in the presentence report—the base offense level under today's Guidelines Manual would be 34, the total offense level would be 31, the criminal

history category would be IV, and the guideline range would be 151 to 188 months.

I assume without deciding that Mr. Blocker is not entitled to application of today's Guidelines Manual. He was properly treated as a career offender under the Guidelines Manual in effect at the time. Even so, one of the sentencing purposes in 18 U.S.C. § 3553(a) is to avoid unwarranted sentence disparity. It is useful, and a proper consideration, to compare Mr. Blocker to an individual with the same criminal history being sentenced today for the same offense committed in the same circumstances. Such an individual likely would serve no more time than Mr. Blocker already has served.

Under all the circumstances, I conclude that Mr. Blocker's sentence should be reduced as set out in this order. A greater sentence is not necessary to achieve the 3553(a) sentencing purposes.

IT IS ORDERED:

1. The judgment is amended to reduce Mr. Blocker's prison sentence to time served as of July 22, 2019.
2. The judgment is amended to reduce the term of supervised release from 10 to 8 years.
3. The judgment remains the same in all other respects.

4. The clerk must provide a copy of this order to the attorneys of record and the Federal Public Defender through the electronic filing system.

SO ORDERED on July 1, 2019.

s/Robert L. Hinkle
United States District Judge