

**UNITED STATES DISTRICT COURT  
DISTRICT OF MAINE**

<b>UNITED STATES OF AMERICA</b>	)	
	)	
	)	
	)	
<b>v.</b>	)	<b>CRIMINAL No. 04-57-P-H</b>
	)	
<b>LEROY MOSLEY,</b>	)	
	)	
<b>DEFENDANT</b>	)	

**ORDER ON DEFENDANT’S MOTION TO REDUCE SENTENCE**

The defendant has asked for the appointment of counsel on a form prepared by this District’s Federal Defender’s office in connection with processing cases under the retroactive cocaine base (crack) Guideline amendment. Because the retroactive Guideline cannot help this defendant, however, I deny the motion.

The defendant pleaded Guilty to the charge of conspiracy to distribute and possess with intent to distribute 50 grams or more of cocaine base. I sentenced the defendant on June 2, 2005. Because he had three previous convictions for crimes of violence, I found him to be a career offender under Guideline § 4B1.1, with a Guideline range of 262 to 327 months. Drug quantity did not affect determination of that Guideline range.<sup>1</sup>

The defendant’s sentence was not based on Guideline calculations of the quantity of crack/cocaine base, but upon the fact that he was a career offender.

---

<sup>1</sup> Except in the sense that the quantity charged in the Indictment affected the maximum authorized sentence under 21 U.S.C. § 841(a)(1)(A). Because the maximum sentence was life, the base offense  
*(continued on next page)*

The relevance of the 50 grams of crack/cocaine base was to make him subject to a maximum term of life imprisonment under the statute. 21 U.S.C. § 841(b)(1)(A). That is what drove the Guideline range, not the Guideline calculation for crack cocaine. Applying the new, more lenient crack/cocaine base Guideline simply would not affect Mosley's sentence.

Accordingly, the defendant's motion, treated as a motion both to appoint counsel and to reduce sentence under 18 U.S.C. § 3582(c), is **DENIED**.

**SO ORDERED.**

**DATED THIS 5<sup>TH</sup> DAY OF FEBRUARY, 2008**

/s/D. BROCK HORNBY  
**D. BROCK HORNBY**  
**UNITED STATES DISTRICT JUDGE**

---

level under Guideline § 4B1.1 was 37.

**U.S. DISTRICT COURT  
DISTRICT OF MAINE (PORTLAND)  
CRIMINAL DOCKET FOR CASE #: 2:04CR57 (DBH)**

**United States of America**

represented by Helene Kazanjian  
Office of the U.S. Attorney  
District Of Maine  
100 Middle Street Plaza  
Portland, ME 04101  
(207) 780-3257

v.

**Leroy Mosley,  
Defendant**

Represented By Leroy Mosley, Pro Se  
#04483-036  
Butner FCI – Medium - 1  
P.O. Box 1000  
Butner, NC 27509