

**UNITED STATES DISTRICT COURT  
DISTRICT OF MAINE**

<b>UNITED STATES OF AMERICA</b>	)	
	)	
	)	
<b>v.</b>	)	<b>CRIMINAL No. 03-41-P-H-04</b>
	)	
<b>GEORGE WASHINGTON,</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 cocaine”) Guideline amendment. Because the retroactive Guideline cannot help this defendant, however, I deny the motion.

The defendant was convicted of distributing 5 grams or more of crack cocaine. After remand to consider United States v. Booker, 543 U.S. 220 (2005), I resentenced the defendant on May 31, 2006. Because he had two previous convictions for a crime of violence and a controlled substance offense, I found him to be a career offender under Guideline § 4B1.1, with a Guidelines range of 360 months to life. Drug quantity did not affect determination of that Guidelines range.<sup>1</sup>

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<sup>1</sup> Except in the sense that the quantity charged in the indictment and for which he was convicted affected the maximum authorized sentence under 21 U.S.C. § 841(a)(1)(A). Because the maximum sentence was life, the base offense level under Guideline § 4B1.1 was 37.

The defendant's sentence was not based on Guidelines calculations of the quantity of crack cocaine, but upon the fact that he was a career offender. The relevance of the 5 grams of crack cocaine was to make him subject to a maximum term of life imprisonment under the statute because of his previous felony drug conviction.<sup>2</sup> 21 U.S.C. § 841(b)(1)(B). That is what drove the Guidelines range, not the Guideline calculation for crack cocaine. Applying the new, more lenient crack cocaine Guideline simply would not affect Washington'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 6<sup>TH</sup> DAY OF MARCH, 2008**

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

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<sup>2</sup>The government timely filed an Information to that effect under 21 U.S.C. § 851.

**U.S. DISTRICT COURT  
DISTRICT OF MAINE (PORTLAND)  
CRIMINAL DOCKET FOR CASE #: 2:03CR41-04 (DBH)**

**United States of America**

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**v.**

**George Washington,  
Defendant**

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