

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

UNITED STATES OF AMERICA)	
)	
)	
v.)	CRIMINAL No. 06-62-P-H
)	
RYAN BUTTERWORTH,)	
)	
DEFENDANT)	

ORDER ON DEFENDANT’S MOTION TO AMEND SENTENCE

I sentenced this defendant to the mandatory 20-year statutory minimum sentence on February 22, 2007, because his offense involved more than 50 grams of crack and because the government filed an information under 21 U.S.C. § 851 that he had a prior felony drug trafficking conviction. The First Circuit affirmed the sentence on December 20, 2007. Now the defendant seeks to be re-sentenced under the more lenient crack sentencing provisions of the Fair Sentencing Act of 2010.

I **DENY** his motion to amend sentence. The overwhelming weight of authority is against applying the Fair Sentencing Act to those already sentenced, let alone those whose sentences are already final. United States v. Bell, No. 09-3908, 2010 WL 4103700, at *10 (7th Cir. Oct. 20, 2010) (challenging on direct review sentence imposed prior to the enactment of the Fair Sentencing Act); United States v. Brown, No. 10-1791, 2010 WL 3958760, at *1 (8th Cir. Oct. 12, 2010) (same); United States v. Gomes, No. 10-11225,

2010 WL 3810872, at *2 (11th Cir. Oct. 1, 2010) (same); United States v. Carradine, No. 08-3220, 2010 WL 3619799, at *12-13 (6th Cir. Sept. 20, 2010) (same); United States v. Millhouse, No. 7:04-CR-85-F3, 2010 U.S. Dist. LEXIS 112988, at *6 (E.D.N.C. Oct. 22, 2010) (denying motion to reduce sentence); United States v. Jones, No. 08-40, 2010 U.S. Dist. LEXIS 110423, at *3 (W.D. Pa. Oct. 18, 2010) (same); United States v. Hughes, No. 07-33, 2010 WL 3982138, at *3 (W.D. Wis. Oct. 8, 2010) (same); United States v. Ohaegbu, No. 92-35, 2010 WL 3490261, at *1-2, (M.D. Fla. Aug. 31, 2010) (same).

Thus, this case is unlike United States v. Douglas, Case No. 09-202 (D. Me. Oct. 27, 2010), where today I have ruled that for sentences going forward the provisions of the Fair Sentencing Act do apply, even if the criminal conduct occurred before its enactment, August 3, 2010. I recognize that this outcome will seem unfair to people like this defendant who was sentenced under the harsher regime, but that is a decision that Congress has made and it is not for me to change.

SO ORDERED.

DATED THIS 27TH DAY OF OCTOBER, 2010

/s/D. BROCK HORNBY

D. BROCK HORNBY

UNITED STATES DISTRICT JUDGE

**U.S. DISTRICT COURT
DISTRICT OF MAINE (PORTLAND)
CRIMINAL DOCKET NO. 2:06-CR-62 (DBH)**

United States of America

Represented By Craig M. Wolff
U.S. Attorney's Office
District of Maine
100 Middle Street Plaza
Portland, ME 04101
(207) 780-3257
email: craig.wolff@usdoj.gov

Margaret D. McGaughey
U.S. Attorney's Office
District of Maine
100 Middle Street Plaza
Portland, ME 04101
(207) 780-3257
email:
margaret.mcgaughey@usdoj.gov

v.

**Ryan Butterworth,

Defendant**

Represented By Ryan Butterworth
#04800-036
FCI Beckley
P.O. Box 350
Beaver, WV 25813
Pro Se

John Paul Degrinney
Degrinney Law Offices
1266 Congress Street
Portland, ME 04102
(207) 756-8557
email: jplaw@maine.rr.com