

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

UNITED STATES OF AMERICA,)	
)	
)	
v.)	
)	Docket no. 05-cr-84-P-S
RASHAUN JONES,)	
)	
)	
Defendant.)	
)	

ORDER DENYING REQUEST FOR SENTENCE REDUCTION

Before the Court is a letter from the Defendant, dated February 10, 2008 (Docket # 130), which this Court has docketed and treated as a motion to appoint counsel and a motion to reduce sentence. Via this submission, the Defendant ultimately seeks a sentence reduction pursuant to 18 U.S.C. § 3582(c)(2) and the recent amendments to the Sentencing Guidelines related to crack cocaine. At the original sentencing on October 6, 2006, the Court considered the applicable Guideline range as well as the factors laid out in 18 U.S.C. § 3553(a) and ultimately imposed a sentence of 188 months; this sentence was at the low end of the applicable Guideline range.

Having reviewed the file and the original PSR, the Court has determined that the recent amendments to the Guidelines do not lower the base offense level for this Defendant. Even after applying the amended Guidelines, the Defendant would be held responsible for a total drug quantity of 3,787.16 grams of marijuana equivalent, which yields the same base offense level (34) that was determined to apply at the

October 6, 2006 sentencing.¹ Without a change in the base offense level, the Defendant's total offense level remains at 36 and his criminal history category I.

Because the amendment does not result in a lower Guideline calculation for this Defendant, the Court may not reduce the sentence pursuant to 18 U.S.C. § 3582(c). For this reason, the Court hereby DENIES Defendant's Motion.

SO ORDERED.

/s/ George Z. Singal
Chief U.S. District Judge

Dated this 22nd day of February, 2008.

¹ The Court notes that it has specifically reviewed the drug quantity calculation in light of the problematic computational anomalies recently noted by Judge Woodcock in United States v. Horta, No. 07-cr-16-B-W, 2008 WL 445893 (D. Me. Feb. 19, 2008). The Court notes that the crack quantity involved in this case (25.8 grams) actually calls for the use of the comparably favorable ratio of 5 kg of marijuana equivalent for each 1 g of crack; this is the lowest possible ratio listed in USSG § 2D1.1, comment 10(D)(i)(II). Thus, the Court has concluded that there is no basis for considering a Horta-type variance.

Defendant (2)

RASHAUN JONES

TERMINATED: 10/11/2006

also known as

SMOKE

TERMINATED: 10/11/2006

represented by **RASHAUN JONES**

04740-036

FCI FORT DIX

P.O. BOX 2000

FORT DIX, NJ 08640

PRO SE

SARAH A. CHURCHILL

STRIKE, GOODWIN & O'BRIEN

400 ALLEN AVENUE

PORTLAND, ME 04103

878-5519

Email:

schurchill@sgolawyers.com

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Designation: CJA Appointment

Pending Counts

NARCOTICS - SELL,
DISTRIBUTE, OR DISPENSE:
Conspiracy to distribute and
possess with intent to distribute
one kilogram or more of a mixture
or substance containing heroin and
a mixture or substance containing
cocaine base in violation of Title
21, U.S.C. Sections 841(a)(1) and
846.

(1)

Disposition

Imprisonment of 188 Months, 5
Years Supervised Release, \$100
Special Assessment

Highest Offense Level (Opening)

Felony

Disposition

Terminated Counts

None

**Highest Offense Level
(Terminated)**

None

Complaints

21:841A=ND.F conspiracy to
distribute and possess w/intent to
distribute cocaine base,
21:841(a)(1), 846

Disposition

Plaintiff

USA

represented by **RENEE M. BUNKER**
OFFICE OF THE U.S.
ATTORNEY
DISTRICT OF MAINE
100 MIDDLE STREET PLAZA
PORTLAND, ME 04101
Email: renee.bunker@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED