

William W. Wilkins
Member
Admitted in SC

July 7, 2014

Honorable Patti B. Saris
Chair
United States Sentencing Commission
One Columbus Circle, N.E.
Suite 2-500, South Lobby
Washington, D.C. 20002-8002

Re: Retroactivity of the 2014 Drug Guidelines Amendment

Dear Judge Saris,

The Commission is to be commended for its recent decision regarding drug offenses. I write to urge the Commission to approve retroactivity for eligible inmates and to do so without conditions or exclusions. The reasons that support the change going forward fully support its application to inmates whose terms were based on now lower base offense levels. Many inmates are serving sentences that would very likely be shorter were they sentenced under the new, lower guideline. I can think of no reason to deny them an opportunity to petition the courts for relief.

I applaud the Department of Justice's support for retroactivity but I do not support the exclusions it proposes. I appreciate that they are meant to protect the public. But, I am reassured by new research from the Commission that recidivism rates for the inmates released following retroactivity of the crack cocaine guideline reduction remain slightly lower than the rate for the control group of full-term inmates. Moreover, these exclusions would cut too deeply – denying many eligible inmates their chance to be considered. Automatic exclusions are not in keeping with our criminal justice system's commitment to individualization and proportionality. Protecting the public is very important. Judges are best positioned to consider individual inmates and assess their risk of dangerousness.

Finally, I believe that it is fundamentally unfair to deny any eligible inmate the benefit of retroactivity. Especially so because an inmate's enhancement for conduct or criminal history will not be eligible for reduction; all inmates will be

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required to serve fully the enhanced portion of their sentences. Only the underlying drug sentence would be up for consideration.

I urge the Commission make the amendment retroactive. The position I took in 2011 when it considered Department-proposed exclusions to Fair Sentencing Act guideline reductions remains unchanged. "The Commission has never attempted to split the baby in this fashion and it should not do so now. In the past it always and correctly trusted federal judges to handle sentence reduction decisions responsibly."

Thank you for considering my views.

Very truly yours,

A handwritten signature in cursive script, appearing to read "William W. Wilkins".

William W. Wilkins