

From: [Murphy, Dan](#)
To: [Public Affairs](#)
Subject: [External] Comments Re: Proposed Priorities for Amendment Cycle Ending May 1, 2023
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Carlton W. Reeves or

TO WHOM IT MAY CONCERN:

As provided in the United States Sentencing Commission announcement of its meeting on October 28, 2022, I offer the following as a response to the Request for public comment.

INTRODUCTION

I am an attorney licensed to practice in the State of Georgia. I am not a criminal attorney, however, I feel the need to comment based upon the circumstances of a nephew of a very good friend. My friend's nephew was sentenced in 2002 to a term of thirty-two years based upon conviction for three separate but related offenses. It is my understanding that the sentences are consecutive and not concurrent. When the nephew was sentenced he was twenty-one years of age. He has served approximately twenty years of the sentence of thirty-two years and is scheduled for release in 2031. However, as noted, he has spent approximately half of his life in prison for crimes that should not have resulted in the severe consecutive sentences that were imposed.

POSITION

The Commission has noted that its first priority for the October 28, 2022, meeting is possible amendments to Sec. 1B1.13 (Reduction in Term of Imprisonment Under 18 U.S.C. Sec. 3582(c)(1)(A) (Policy Statement) to (A) implement the First Step Act of 2018 (Pub. L. 115-391); and (B) further describe what should be considered extraordinary and compelling reasons for sentence reductions under 18 U.S.C. Sec. 3582(c)(1)(A).

It would appear that the Commission recognizes the need for change by making this its first priority. One has to wonder why the First Step Act was not applied retroactively, but the fact is that it was not. The patent unfairness of failing to make the Act retroactive is obvious. In my opinion, different sentencing treatment should not be based upon the happenstance of when a crime was committed.

18 U.S.C. Sec. 3553(a) is entitled "Factors to be Considered in Imposing a Sentence." Section (a)(1) provides that the nature and circumstances of the offense and the history and characteristics of the defendant be considered. As pointed out, the nephew was only 21 years of age with no prior convictions at the time of his sentencing. Then, to address some of the factors concerning the need for the sentence imposed, consider Sec. (a)(2)(A) referring to the seriousness of the offense, (a)(2)(B) referring to adequacy of the sentence to deter criminal conduct and (a)(2)(C) referring to a sentence

necessary to protect the public from further crimes of the defendant. In the case of the nephew, the seriousness of the three offenses was not such that anyone was put in harm's way, but the ill-advised involvement in illegal drugs. As far as deterring future criminal conduct, it should be obvious that anyone who has spent one-half of his life in prison is not likely to engage in criminal activities if released. Finally, the length of the sentences currently being served has more than protected the public and the public should not be threatened by the release of this individual at this time.

In short, it is my position that the Commission can do much to correct the unfairness of what has been described in this comment by recommending implementation or application of the First Step Act retroactively and expanding what should be considered extraordinary and compelling reasons for sentence reductions. I am convinced that my friend's nephew is not the only person incarcerated who is suffering from the current disparity that I believe the Commission can correct by its actions on October 28, 2022.

Thank you for your consideration of my comment.

Daniel P. Murphy