

Marcos F. Santiago



February 19, 2012

U.S. Sentencing Commission  
One Columbus Circle, NE  
Suite 2-500, South Lobby  
Washington, D.C. 20002-8002

RE: PROPOSED AMENDMENTS TO U.S. SENTENCING GUIDELINES

To whom it may concern:

I'm writing this letter in response to the Sentencing Commission's recent announcement that it's seeking public comment on proposed amendments to the U.S. Sentencing Guidelines. As an inmate I may not be what the Commission had in mind when it called on the public to comment on these proposed amendments, but since whatever decisions are made in relation to the issue in question may someday affect me, I consider it my duty to express my own opinions on the matter.

I understand that one proposal up for consideration concerns the repealing of U.S.S.G. §5K2.19, which bars judges from granting a downward departure to defendants based on post-conviction rehabilitation efforts.

I understand also that another proposal would allow judges to consider post-conviction rehabilitation efforts, but would allow them to depart downwardly only if the inmates' rehabilitation efforts are "present to an unusual degree" and distinguished from the typical case.

For the following reason I'm of the opinion, as an inmate who's been incarcerated for ten years now, that repealing U.S.S.G. §5K2.19 would lead to a more just result than an amendment that authorizes judges to grant inmates downward departures only if their rehabilitation efforts are "present to an unusual degree" and distinguished from the typical case.

The latter proposal, were it to go into effect, would unfairly discriminate against inmates with learning disabilities. I have friends in prison who can't read or write, for example, and so it's far from likely that they'll be able to build up a prison record that would reflect that their rehabilitation efforts are "present to an unusual degree" and distinguished from the typical case. Only the brightest inmates will be able to do that, while those inmates with learning disabilities will never be able to meet the virtually insurmountable and extremely high standard of the latter proposed amendment.

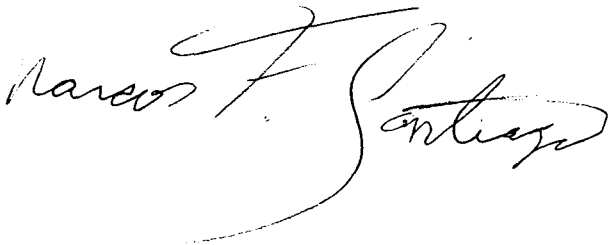
The former proposal, however, would free judges to take each particular individual defendants' mental capacity into consideration along with their post-conviction rehabilitation efforts when deciding upon a proper sentence. Otherwise, judges would be forced to say to inmates whose mental handicaps preclude them from establishing a prison record that reflects that their post-conviction rehabilitation efforts are "present to an unusual degree" and distinguished from the typical case:

"I'm sorry; I'd like to depart downwardly and give you a lesser sentence; but the law forbids me from doing so since you're not bright enough. So until you figure out a way to overcome your mental handicapped condition, you'll never qualify for a downward departure -- I'm sorry, you're just not smart enough!.."

Discriminating against people with mental handicaps is no less unjust than discriminating against people because of the color of their skin, or because of their gender, or etc. Therefore, it is my hope and prayer that, instead of creating a policy that discriminates against mentally impaired inmates, this Honorable body of respectable persons instead repeals U.S.S.G. §5K2.19 in light of Pepper v. United States. Thank you for considering my comments.

Yours very truly,

Marcos F. Santiago

A handwritten signature in cursive script that reads "Marcos F. Santiago". The signature is written in dark ink and is positioned below the typed name.