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Tony Cárdenas
Congress of the United States
29th District, California

WASHINGTON OFFICE:

1508 LONGWORTH HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
P (202) 225-6131
F (202) 225-0819

DISTRICT OFFICE:

9300 LAUREL CANYON BOULEVARD, 2ND FLOOR
ARLETA, CA 91331
P (818) 504-0090
F (818) 504-0280

July 10, 2014

Chair Patti Saris
U.S. Sentencing Commission
One Columbus Circle NE, Suite 2-500
Washington, DC 20002-8002

Attn: Public Affairs-Retroactivity Public Comment

Dear Chair Saris:

I am writing to you to express my support for the retroactivity of Amendment #3, U.S.S.G. § 1B1.10, the “drugs minus two” amendment submitted by the U.S. Sentencing Commission to Congress on April 30, 2014.

The “drugs minus two” amendment should be made retroactive and without limitation. As other proponents of this change have correctly asserted, justice should not depend on something as arbitrary as the date a person was sentenced. As such, prisoners sentenced before November 1, 2014 (the date after which the amendment will start sentence reduction) should also be fairly and justly treated. As a matter of basic fairness and proper justice, the Commission must seriously consider and promptly pursue the retroactivity of this amendment. The retroactive application of the “drugs minus two” amendment would provide numerous economic and social benefits. The retroactive application of this amendment would save billions of dollars, reduce prison overcrowding and costs, and benefit minority communities. Contrary to the concerns of those skeptical of retroactivity, this change would not harm public safety and would not over-burden the court system.

In the past, the Commission has appropriately made other reduced guidelines retroactive. The most recent examples of this have occurred in 2007 and 2011. In 2007, the Commission lowered crack cocaine sentences by two guideline levels and, shortly thereafter, made that change retroactive. As a result of that change, 17,000 prisoners serving sentences for crack cocaine offenses received shorter sentences by an average of 26 months. In 2011, the Commission made another crack cocaine amendment retroactive and 7,500 prisoners received shorter sentences by an average of 36 months. In both of these instances, the courts correctly denied retroactive sentence reduction to crack cocaine offenders who clearly posed harm to public safety. It is wrong to believe that the courts would not correctly make these denials again to protect public safety if the Commission decides to make this amendment retroactive. Given

the Commission's commendable track record of retroactive application of amendments, I urge the Commission to similarly pursue retroactivity for the "drugs minus two" amendment.

For these specific reasons, I urge the Commission to make the "drugs minus two" amendment retroactive.

Sincerely,

A handwritten signature in blue ink that reads "Tony Cardenas". The signature is written in a cursive, flowing style.

TONY CÁRDENAS
Member of Congress