

Minutes of the April 9, 1991, United States Sentencing Commission Business Meeting

The meeting was called to order at 2:10 p.m. by Chairman William W. Wilkins, Jr.

The meeting was held in the library of the U.S. Sentencing Commission. The following Commissioners, staff, and guests participated:

William W. Wilkins, Jr., Chairman
Julie E. Carnes, Commissioner
Helen G. Corrothers, Commissioner
Michael S. Gelacak, Commissioner
George E. MacKinnon, Commissioner
A. David Mazzone, Commissioner
Paul L. Maloney, Ex Officio Commissioner
Phyllis J. Newton, Staff Director
Paul K. Martin, Deputy Staff Director
John R. Steer, General Counsel
Nolan Clark, Deputy General Counsel
Peter Hoffman, Principal Technical Advisor
Deborah De Lambert, Special Counsel
Richard Murphy, Special Counsel
Ronnie M. Scotkin, Guideline Development Analyst
Win Swenson, Deputy General Counsel
Vince Ventimiglia, Law Clerk
Tom Hutchison, Representative, Federal Public Defenders
Roger Pauley, Criminal Division, DOJ
Vicki Portney, Criminal Division, DOJ

Commissioner Nagel was unable to attend the meeting.

-- Motion made by Commissioner Corrothers to adopt the minutes of the April 2, 1991, Commission meeting; seconded by Commissioner Mazzone. Passed unanimously.

Amendments

#13: Crystal Methamphetamine (Ice)

Motion made by Commissioner Mazzone to adopt the proposed staff amendment; seconded by Commissioner Gelacak. Passed unanimously.

#33: §5G1.3 Imposition of a Sentence on a Defendant Subject to an Undischarged Term of Imprisonment

Chairman Wilkins moved adoption of proposed staff amendment (Attachment A) with the deletion in Application Note #4 of the second sentence and the term "instant" located the third line from the bottom, and the deletion of all language on page 5; seconded by Commissioners Carnes and Corrothers. Passed unanimously.

#3, #21, #22: §2B1.1 Larceny, Embezzlement, and Other Forms of Theft; §2K1.1 Unlawfully Trafficking in, Receiving, or Transporting Explosive Materials: Improper Storage and Failure to Report Theft of Explosive Material; §2K2.1 Prohibited Transactions Involving Firearms

Commissioner Carnes recognized Stephen Rubenstein, Donald Kincaid, Karl Stankovic, David Neiman and Lynn Cheatwood, all from the Bureau of Alcohol, Tobacco and Firearms, who have been involved in work on the firearms and explosives proposals.

Deferred until later this amendment cycle.

Miscellaneous: §1B1.1 Application Instructions; §2B1.1 Larceny, Embezzlement, and Other Forms of Theft; §2F1.1 Fraud and Deceit; §2E5.2 Theft or Embezzlement from Employee Pension and Welfare Benefit Plans; §2J1.2 Obstruction of Justice; §2J1.3 Perjury or Subornation of Perjury; §2J1.5 Failure to Appear by Material Witness; §2J1.8 Bribery of Witness; §2K2.4 Use of Firearms or Armor-Piercing Ammunition During or in Relation to Certain Crimes; §2P1.1 Escape, Instigating or Assisting Escape; §2T1.2 Willful Failure to File Return, Supply Information, or Pay Tax; §2X5.1 Other Offenses; §3B1.1 Aggravating Role; §3C1.1 Obstructing or Impeding the Administration of Justice; Chapter Five, Part A Sentencing Table; §5F1.3 Community Service; §2C1.1 Offering, Giving, Soliciting, or Receiving a Bribe: Extortion Under Color of Official Right; §2D1.4 Attempts and Conspiracies; §1B1.3 Relevant Conduct (Factors that Determine the Guideline Range)

Chairman Wilkins moved for adoption of all miscellaneous amendments except §2D1.4 - Attempts and Conspiracies and the insertion in §3C1.1, the example section of Application Note #3 of language to include resisting arrest by violent means; seconded by Commissioner Corrothers. Passed unanimously.

#16 (A-D): §2D1.11 Unlawful Distribution, Import, Export or Possession of Listed Chemicals; §2D1.12 Unlawful Possession, Manufacture, Distribution, or Importation of Prohibited Flask or Equipment; §2D1.13 Structuring Chemical Transactions or Creating a Chemical Mixture to Evade Reporting or Recordkeeping Requirements: Presenting False or Fraudulent Identification to Obtain a Listed Chemical; §2D3.5 Violation of Recordkeeping or Reporting Requirements for Listed Chemicals and Certain Machines

Deferred until later this amendment cycle.

Win Swenson and Nolan Clark distributed a revised senior staff draft on organizational sanctions. A brief discussion occurred on this draft.

Chairman Wilkins adjourned the meeting at 5:35 p.m.