

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

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|---------------------------|---|---------------------|
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | No. 05-10246-01-WEB |
| |) | |
| MICHAEL L. HADLEY, |) | |
| |) | |
| Defendant. |) | |
| _____ |) | |

Memorandum and Order

This matter came before the court on the defendant's objection to the Presentence Report. The court ruled orally on the objection at the sentencing hearing of August 28, 2006. This written memorandum will supplement the court's oral ruling.

The defendant filed one objection to the Presentence Report. He argues there are grounds for a downward departure or a variance from the guideline range based on his post-offense rehabilitation. Among other things, defendant notes he has complied with all the conditions of his bond, including attending therapy and counseling, and he has had no positive drug tests in the six months he has been on pretrial supervision. He also says this is the first time he has had any medication for mental and emotional problems and that his behavior has improved significantly. He seeks a sentence of probation and argues this would allow him to obtain needed vocational training, as he is currently enrolled in the Old Town Barber and Beauty College and estimates he will complete the program by the end of the year. As an alternative to a downward departure or variance, the defendant asks the court to stay execution of the judgment to allow him to complete the barber college program, in which he says he has invested a substantial sum of money..

The court finds there are no extraordinary circumstances that would warrant a departure from

the guidelines. The defendant has made some commendable efforts at rehabilitation, but his record cannot be considered extraordinary. The court further finds, based on the factors in 18 U.S.C. § 3553(a), that a sentence within the guideline range is appropriate. The fact that defendant has generally complied with the conditions of release does not warrant a sentence below the advisory guideline range. The court notes that Mr. Hadley has an extensive criminal history and has repeatedly engaged in various sorts of criminal behavior throughout his adult life. Under the circumstances, the court concludes a sentence within the guideline range is appropriate.

The court will grant the defendant's request to stay execution of the judgment until January 3, 2007, so as to give him an opportunity to complete the barber college program. The court cautions the defendant, however, that any failure to make adequate progress toward completion of the barber college program, or any failure to abide by the rules of the barber college, the halfway house, or the conditions of supervision of this court will result in a lifting of the stay of execution.

Conclusion.

Defendant's objection to the Presentence Report is DENIED. The Probation Officer in charge of this case shall see that a copy of this order is appended to any copy of the Presentence Report made available to the Bureau of Prisons.

The defendant's request for a temporary stay of execution of the judgment is GRANTED. The execution of the judgment is hereby STAYED by order of the court until January 3, 2007.

IT IS SO ORDERED this 29th Day of August, 2006, at Wichita, Ks.

s/Wesley E. Brown
Wesley E. Brown
U.S. Senior District Judge