

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

|                           |   |                     |
|---------------------------|---|---------------------|
| UNITED STATES OF AMERICA, | ) |                     |
|                           | ) |                     |
| Plaintiff,                | ) |                     |
|                           | ) |                     |
| v.                        | ) | No. 07-10122-02-WEB |
|                           | ) |                     |
| BRENDA L. RUSSELL,        | ) |                     |
|                           | ) |                     |
| Defendant.                | ) |                     |
| _____                     | ) |                     |

**Memorandum and Order**

This matter came before the court for sentencing on January 7, 2008. The defendant did not file any objections to the Presentence Report, although she has now filed a sentencing memorandum arguing for application of the “safety valve” and arguing for a sentence of probation or home detention under the factors in Section 3553(a). The court ruled orally on these matters at the sentencing hearing. This written memorandum will supplement the court’s oral rulings.

I. Safety valve.

Defendant argues she is entitled to application of the “safety valve” under § 3553(e) and USSG 5C1.2, including the 2-level reduction provided for in USSG 2D1.1(b)(11). At the sentencing hearing the Government announced that it would not oppose the defendant’s argument for the safety valve. Accordingly, defendant’s objection concerning the safety valve is sustained and the offense level is reduced by 2-points, to 21, resulting in an advisory guideline range for imprisonment of 37 to 46 months.

II. Section 3553(a).

Defendant has provided a number of reasons in her sentencing memorandum why she believes a sentence below the advisory guideline range is appropriate. The court considered these arguments, but concludes that a sentence at the low end of the guideline range represents a sentence sufficient but not greater than necessary to achieve the purposes of sentencing. The instant offense involved a significant quantity of cocaine. Although the defendant has little criminal history, she does have a prior conviction involving theft and/or forgery. And although the defendant had a difficult upbringing, has some health issues, and is not a violent offender, the court concludes such factors do not warrant a sentence below the advisory guideline range in this instance. A consideration of all of the factors in § 3553(a) – including the need to reflect the seriousness of the offense, to provide just punishment for the offense, and to afford adequate deterrence to criminal conduct – warrant a sentence at the low end of the guideline range. Such a sentence will further avoid unwarranted disparities among defendants with similar records who commit similar offenses.

III. Conclusion.

The defendant Brenda Russell's objections to the Presentence Report are SUSTAINED IN PART and DENIED IN PART as set forth above. 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. IT IS SO ORDERED this 8th Day of January, 2008, at Wichita, Ks.

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