



MEMORANDUM

To: Honorable Monti L. Belot
U.S. District Judge

From: Bryce J. Beckett
U.S. Probation Officer

A handwritten signature in black ink, appearing to read "Bryce J. Beckett".

Re: **TODD R. GEHRINGER**
Docket No. 6:07CR10223-001

Date: February 17, 2012

Per our conversation yesterday, this memo has been prepared, in part, as a response to Mr. Gehringer's request to vacate his sentence pursuant to 28 U.S.C. § 2255. Your Honor asked the U.S. Probation Officer to address the drug quantities in Paragraph 43 of Mr. Gehringer's Presentence Report (PSR), specifically with regard to whether the quantity, charged by way of 21 U.S.C. § 841 or 21 U.S.C. § 844, would have an overall effect on the guideline computations.

As a result of Mr. Gehringer's conviction on Counts 3, 8 & 9, his offense level was determined pursuant to the provisions of U.S.S.G. § 2D1.1. These provisions require that drug quantities from all related (grouped) counts are converted to their marijuana equivalency (if different substances) utilizing the drug equivalency table; thereby establishing a total quantity of marijuana inclusive of all the offense behavior. This total quantity is then used to determine the defendant's base offense level.

Mr. Gehringer was held responsible for all of the substances as described in the offense conduct section of his presentence report. All of these substances, regardless of their type or quantity, were converted to a marijuana equivalency resulting in a total of 1,419.81 kilograms of marijuana; thereby establishing a base offense level of thirty-two (32). U.S.S.G. § 2D1.1(a)(3)(c)(4). (See PSR Paragraph 48)

As long as Mr. Gehringer was convicted of one count of 21 U.S.C. § 841, his guideline would have been determined using this method and the provisions of U.S.S.G. § 2D1.1, would apply. Furthermore, if the quantity of drugs involved in Count 3 (PSR Paragraph 43) were disregarded entirely Mr. Gehringer's total offense level as reflected in the PSR would remain unchanged since the total quantity attributed to him would still fall between 1,000 and 3,000 KGs of marijuana, thereby establishing a base offense level of thirty-two (32). U.S.S.G. § 2D1.1(a)(3)(c)(4).

Should Your Honor have any further questions, or desire additional information, please let me know.