



abuse its discretion by considering the disparity. 128 S.Ct. at 488. At least one circuit has read *Kimbrough* to necessitate a limited remand where the district court, at sentencing, did not believe it had the authority to consider the crack/powder disparity as a sentencing factor and a basis for a sentence reduction. See, e.g., *United States v. Stratton*, 519 F.3d 1305, 1306 (11th Cir. Fla. 2008).

This is not such a case, however, as the district court stated at Townsend's sentencing that it:

[found] nothing in the case, including the disparity in sentencing between crack cocaine and powder cocaine, which I have on one other occasion in combination with other factors found to be worthy of some consideration, there's nothing in this case that clearly establishes that a sentence other than the sentence suggested by the advisory guideline range would be a reasonable sentence in this case.

As the court indicated, it found the crack/powder disparity, along with other factors, to warrant sentencing one of Townsend's codefendants below the recommended guideline range. Thus, it is apparent that the district court clearly recognized its authority to consider the disparity, but did not think the disparity justified sentencing Townsend below the recommended guideline range. Townsend's case, therefore, does not necessitate a remand.

For the foregoing reasons, we **REINSTATE** all aspects of our previous opinion, except as to the issue of crack/powder disparity, and we **AFFIRM** the sentence imposed by the district court.