

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
CEDAR RAPIDS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MICHAEL BIRKS,

Defendant.

No. CR03-0024-LRR

**FINAL ORDER REGARDING
MOTION FOR SENTENCE
REDUCTION PURSUANT TO
18 U.S.C. § 3582(c)(2)**

This matter is before the court pursuant to its February 19, 2008 order. In such order, the court, among other things, discussed Amendment 706, as amended by Amendment 711, to USSG §2D1.1 and stated:

Having reviewed the defendant's file, the provisions and commentary of USSG §1B1.10, the factors set forth in 18 U.S.C. § 3553(a), the nature and seriousness of the danger to any person or community that may be posed by a reduction in the defendant's term of imprisonment and the defendant's post-sentencing conduct, the court preliminarily deems it appropriate to exercise its discretion and grant the defendant the maximum reduction permitted under 18 U.S.C. § 3582(c)(2) and USSG §1B1.10. The maximum reduction results in a new term of imprisonment of time served as of March 3, 2008.

The court also notified the parties that they needed to file written objections to the proposed reduction to the defendant's sentence and that, if neither party objected, an order would be filed that makes final the new term of imprisonment.

Neither party filed objections to the court's February 19, 2008 order. Consequently, the court, under 18 U.S.C. § 3582(c)(2), grants a reduction in the defendant's term of imprisonment. The defendant's previously imposed 70 month term

of imprisonment, as reflected in the judgment dated September 6, 2006, is reduced to time served.¹ The defendant's new term of imprisonment of time served applies to count 1 of the indictment. Except as provided above, all provisions of the judgment dated September 6, 2006 remain in effect. As previously stated in the February 19, 2008 order, the duration and conditions of the defendant's supervised release remain unchanged.

The Clerk of Court is directed to send and fax a copy of this order to the Bureau of Prisons, that is, the place where the defendant is currently incarcerated. The Bureau of Prisons is directed to release the defendant, USM No. 08939-029, by no later than March 3, 2008.

IT IS SO ORDERED.

DATED this 3rd day of March, 2008.



LINDA R. READE
CHIEF JUDGE, U.S. DISTRICT COURT
NORTHERN DISTRICT OF IOWA

¹ For purposes of the February 19, 2008 order and the instant order, the court relied on the following determinations:

| | | | |
|----------------------------|-----------------|----------------------------|-----------------|
| Previous Offense Level: | 27 | Amended Offense Level: | 25 |
| Criminal History Category: | II | Criminal History Category: | II |
| Previous Guideline Range: | 78 to 97 months | Amended Guideline Range: | 63 to 78 months |

The reduced sentence of time served is within the amended guideline range.