

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

UNITED STATES OF AMERICA)
v.)
STEPHEN J. COCHRAN,)
DEFENDANT)
)
 CRIMINAL No. 03-61-P-H

**ORDER ON DEFENDANT'S MOTION
TO REDUCE SENTENCE**

This case involves application of the retroactive crack cocaine guidelines. I have read a supplemental presentence report prepared by the Probation Office, the responses of the defendant's lawyer and the government, and the defendant's *pro se* filings. Under the new crack cocaine quantity calculations, this defendant's total offense level is reduced from 31 to 29. Previously I sentenced him at the bottom of the Guideline range, 121 months. Because the crime of which he was convicted carries a mandatory minimum sentence of at least 10 years, this defendant gets only a one-month reduction from the revised crack guidelines.

He also argues that he qualifies for the safety valve, Guideline § 5C1.2, which would let me sentence him below the statutory minimum. Unfortunately for him, he does not qualify. The original presentence report shows that he has two criminal history points for two separate convictions. Although he argues that they now are more than 10 years old and should not be counted at all, their

chronological distance from today is not material. The ten-year measure of those prior convictions applies to the relevant conduct relating to the crime of which he was convicted, and both convictions occurred well within that ten-year time frame. With two criminal history points, he does not qualify for the safety valve. See Guideline § 5C1.2(a)(1).

In another filing, he argued that Amendment 709 would help him. But Amendment 709 is not retroactive. See Guideline § 1B1.10(c).

I note that the defendant appears to have made good progress with his life while he is in prison. I compliment him for that. It does not, however, give me any authority to reduce his sentence.

As a result of the retroactive crack cocaine guideline, the defendant's sentence is reduced to 120 months.

So ORDERED.

DATED THIS 3RD DAY OF SEPTEMBER, 2008

/s/D. BROCK HORNBY

**D. BROCK HORNBY
UNITED STATES DISTRICT JUDGE**