SENTENCING SCENARIO #2

Offense of Conviction: Conspiracy to Distribute and Possess with Intent to Distribute 500 Grams or More of a Mixture and Substance Abuse Containing a Detectable Amount of Cocaine

Statutory Penalties: Five Years to Forty Years Imprisonment

Plea Agreement Summary

The government has agreed not to argue for a particular sentence but does reserve the right to contest any factual inaccuracies raised by the defendant.

Nature and Circumstances of the Offense

Through the investigative efforts of the DEA, the government uncovered a large cocaine distribution network involving the purchase, transportation and distribution of in excess of 50 kilograms of cocaine throughout the Southeast United States during the years 2008 - 2011. In this case, defendant is charged, together with one other person, with conspiracy to possess with the intent to distribute 500 grams or more of cocaine in the Northern District of Florida from March 2011 through December 2011. The defendant's role in the charged conspiracy was to purchase the drugs from individuals in Atlanta and transport them back to North Florida, where his co-defendant distributed them. During 2011, the defendant traveled to Atlanta on 4 separate occasions and purchased 1 kilogram on each occasion, for a total drug weight of 4 kilograms of cocaine. The defendant is not eligible for a minor role adjustment based on his level of culpability. Also, although the defendant has attempted to cooperate and has told the government everything he knows about the criminal organization, no motion for substantial assistance was filed based on defendant's limited knowledge of the scope of the organization and the fact that the Atlanta source is already under indictment in a separate case.

Acceptance of Responsibility

The defendant entered a plea in a timely manner in 2012, thereby avoiding the need for a trial and allowing the Court to allocate its resources efficiently. At his plea hearing, the defendant admitted the factual basis stated in his plea agreement is true and correct. Further, the defendant has cooperated with the probation office in the preparation of the presentence report.

The defendant made the following statement regarding his involvement in the instant offense: The defendant accepts responsibility for his actions. He was trying to assist his children's mother with meeting her financial obligations. He is remorseful for his actions.

Offender Characteristics

<u>Person and Family Data</u>

The defendant, age 26, explained that he grew up in an urban environment where the drug scene was "a way of life" and that he grew up in it and around it. He stated that it was not like he was "introduced" to

the drug scene, but that it was such a normal part of his world. According to the defendant, he was "schooled" by his uncle and on how to sell drugs and conduct himself on the streets. The defendant stated that in his community, drug dealers were celebrated and that they took care of each other.

The defendant never graduated from high school and functions at the third grade level. He has been diagnosed with diabetes, which requires regular medical treatments. He has also been diagnosed with bipolar disorder. The defendant has never been married and has two children that live with their mother. He is ordered to pay $370.00 per month in child support and is currently $15,000 past due with this obligation. The defendant stated he attended high school through the ninth grade.

The defendant has never had a stable job and lacks marketable vocational skills. For the past six years, the defendant has been self-employed with his own clothing business. The defendant stated he sold clothes from the trunk of his vehicle or his house. He estimated earning $1,000 per month. Prior to starting his clothing business, the defendant was employed for three years by a lawn service company, where he earned approximately $200.00 per week. However, his employment was not steady. A credit check reflects the defendant has 14 collection accounts (9 medical accounts; 4 cellular providers; and one utility account) with a total outstanding balance of $5,000.

Risk and Needs Assessment

Overview of Risk and Needs Assessment Instrument

On the recommendation of the probation officer, an actuarial risk/needs assessment tool, which has been validated on federal defendants, was administered in this case. **(See discussion in Scenario #1).**

Overall Risk of Recidivism

In this case, the defendant was determined by the risk/needs assessment instrument to be in the "medium" risk category. Defendants categorized as "medium" have a 25% re-arrest rate and 45% revocation rate within a three year period following release from prison. Controlling and correctional intervention to address the relevant risk factors can, over time, decrease the assessed level and corresponding likelihood of re-arrest or revocation.

Criminal History

The defendant has two prior state court convictions arising out of the same incident for Fleeing and Eluding and Resisting Arrest without Violence. On January 10, 2011, he was sentenced to concurrent sentences of 1 year of probation for Resisting Arrest without Violence and 2 years of probation for Fleeing and Eluding. The defendant committed the offense conduct in the instant case in 2011 while still on probation. At sentencing, the defendant received 1 criminal history point for the probationary sentence and 2 criminal history points for committing the instant offense conduct while serving a sentence of supervision.

Offense Level Computation

Chapter Two Offense Guideline	§2D1.1
• §2D1.1 (c)(1)	30 (base offense level – between 3.5 KG and 5 KG cocaine)
Chapter Three Adjustments	
• §3E1.1(a)&(b)	-3 (Acceptance of Responsibility)
Offense Level Total	**27**

Sentencing Guidelines Range

78-97 months (Based on Offense Level 27 and Criminal History Category II)

Zone D – No imprisonment substitutions provided for under the guidelines, pursuant to §5C1.1(f), because the guideline range is in Zone D of the Sentencing Table.