

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 07-80041-CR-MARRA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DWYNE BYRON DERUISE,

Defendant.

ORDER ON MOTION TO REDUCE SENTENCE PURSUANT TO FIRST STEP ACT


THIS CAUSE is before the Court upon Defendant's Motion to Reduce Sentence under the First Step Act [DE 149]. This Court having reviewed the pertinent portions of the record and being duly advised in the premises, it is hereby

ORDERED and ADJUDGED that the Motion is GRANTED. Defendant has moved for a reduction of his sentence under the First Step Act. At the time of sentencing, Defendant's advisory guideline range as to Count 5 of the indictment was 262 – 327 months of imprisonment, to be followed by a 60 month consecutive sentence on Count 6 of the indictment. The Court varied below the advisory guideline range on Count 5 to 204 months of imprisonment and sentenced Defendant to a total of 264 months of imprisonment. The United States agrees that as a result of the passage of the First Step Act and the Fair Sentencing Act, Defendant is eligible for a sentence reduction on Count 5 of the indictment. [DE 152]. The United States also agrees that as applied to Defendant, the new advisory guideline range for Count 5 is 188 – 235 months of imprisonment. [DE 152 at 5]. The United States, however, opposes a reduction in Defendant's sentence because the variance granted by the Court at Defendant's original

sentencing is within the new advisory guideline range that applies to Court 5.

The Court varied below the advisory guideline range at the time of Defendant's original sentencing because it believed that the original guideline range was too harsh. The Court varied to the point where it believed the sentence would be fair under all of the circumstances and in consideration of the statutory factors set forth in 18 U.S.C. § 3553(a). Notwithstanding the Court having already granted Defendant a variance, the Court believes that Defendant should receive the benefit of the passage of the First Step Act and receive a further reduction in his sentence. Therefore, considering all of the facts of this case, and considering the statutory factors set forth in 18 U.S.C. § 3553(a), Defendant's sentence as to Court 5 of the indictment is reduced to 168 months of imprisonment, to be followed by a 60 month sentence as to Court 6 to be served consecutively to Court 5, for a total sentence of imprisonment of 228 months. All the other terms and provisions of Defendant's sentence shall remain the same.

DONE and ORDERED in West Palm Beach, Florida, this 1st day of July, 2019.



KENNETH A. MARRA
United States District Judge

Copies provided to:

All counsel