

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

ADMINISTRATIVE ORDER 87-50

IN RE: IMPLEMENTATION OF :
SENTENCING PROCEDURES UNDER :
THE SENTENCING REFORM ACT :
OF 1984 :

THIS MATTER AROSE upon the Report and Recommendation of the Sentencing Guideline Administration Committee of the United States District Court for the Southern District of Florida, pursuant to Administrative Order 87-36. Upon consideration of the Committee's Report, the following procedures are hereby established to govern sentencing proceedings under the Sentencing Reform Act of 1984 (Pub.L. 98-473, Title II, c. II, §§211-239). See, 18 U.S.C. §3551 note (Supp. 1987) (effective November 1, 1987).

WHEREAS, to provide adequate time for the United States Probation Office's preparation of the presentence investigation report (PSI), disclosure of the PSI to the parties, the filing of presentence submissions by the parties, and such other and further procedures contemplated by the Sentencing Guidelines and this Order, it is hereby

1. ORDERED AND ADJUDGED that sentencing proceedings shall be scheduled by each District Judge no earlier than sixty (60) days following entry of a guilty plea or a verdict of guilty. It is further

2. ORDERED AND ADJUDGED that the presentence investigation report, including guideline computations, shall be completed and disclosed to the parties at least twenty-five (25) days prior to the scheduled sentencing proceeding, unless the minimum period is waived by the Defendant. This timetable contemplates that the PSI will be completed and disclosed to the parties

at or before the thirty-fifth (35) day following the Defendant's adjudication of guilt. It is further

3. ORDERED AND ADJUDGED that if a party reasonably disputes sentencing factors or facts materials to sentencing, or seeks the inclusion of additional factors or facts material to sentencing in the PSI, it is the obligation of the complaining party to seek administrative resolution of such factors or facts through opposing counsel and the United States Probation Office prior to filing the pleading referenced in paragraphs 4-5, infra. This presentence conference is mandatory except when sentencing factors or facts are not in dispute. Informal resolution of disputed factors or facts material to sentencing should be resolved -- to the extent practicable -- through informal procedures, including telephone conferences. It is further

4. ORDERED AND ADJUDGED that within fifteen (15) days after disclosure of the presentence investigation report to the parties, counsel for the Defendant and the government shall file a pleading entitled, "Position of Parties With Respect to Sentencing Factors", in accordance with §6A1.2 of the Final Draft of the Sentencing Guidelines and Policy Statements (Oct. 1987) or in accordance with subsequent rules and policies published by the United States Sentencing Commission. This filing will coincide with the fiftieth (50) day following the defendant's adjudication of guilt. This pleading shall be accompanied by a written statement certifying that the party has conferred with opposing counsel and with the USPO in good faith effort to resolve the disputed matter(s). The "Position of Parties With Respect to Sentencing Factors" pleadings shall be filed with the Clerk of Court and contemporaneously served upon the United States Probation Office and opposing counsel on or before the fiftieth (50) day following the Defendant's adjudication of guilt. It is further

5. ORDERED AND ADJUDGED, as part of the "Position of Parties with Respect to Sentencing Factors" pleading, the attorneys for the parties shall also file, if indicated in the particular case, notice of any "factor important to the sentencing determination [which] is reasonably in dispute" in accordance with §6A1.3 of the Final Draft of the Sentencing Guidelines and Policy Statements (Oct. 1987) or subsequent rules and policies published by the United States Sentencing Commission. It is further

6. ORDERED AND ADJUDGED that the United States Probation Office shall transmit to the Sentencing Judge the presentence investigation report, including guideline computations, and an addendum indicating any unresolved factual disputes or objections by the parties with respect to the application of the guidelines. It is further

7. ORDERED AND ADJUDGED that each Sentencing Judge shall, before imposing sentence, notify the parties as to the Court's tentative findings concerning disputed factors or facts under §6A1.3(b) of the Final Draft of the Sentencing Guidelines and Policy Statements (Oct. 1987) and provide a reasonable opportunity for the submission of oral or written objections by either party prior to the imposition of sentence. It is further

8. ORDERED AND ADJUDGED that when there are disputed factors or facts, three (3) days prior to the scheduled sentencing proceeding, the Sentencing Judge will advise the parties, through the United States Probation Office, as to its "tentative findings" under §6A1.2-.3 of the Final Draft of the Sentencing Guidelines and Policy Statements (Oct. 1987). It is the affirmative obligation of the attorneys, defense counsel and prosecutors, to contact the United States Probation Office three (3) days prior to the scheduled proceeding in order to obtain copies of the court's tentative findings regarding any disputed factors or facts. The Court will

prescribe a form for Sentencing Judges to transmit such notices and tentative findings to the United States Probation Office. It is further

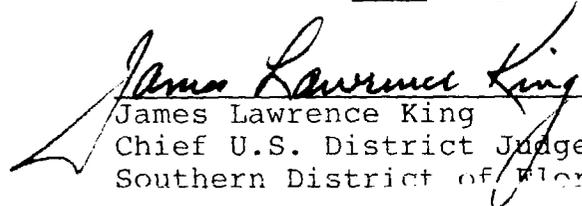
9. ORDERED AND ADJUDGED that the aggrieved parties will have a reasonable opportunity in advance of sentencing to respond to the Sentencing Judge's notice of tentative findings regarding disputed factors or facts. The manner and form of such responses by the parties are subject to the informed discretion of each Sentencing Judge on a case by case basis, i.e., whether the parties will have an opportunity to present written submissions or actual testimony prior to the imposition of sentence.

10. ORDERED AND ADJUDGED that all copies of the presentence investigation report provided to the parties shall be returned to the United States Probation Office after completion of the sentencing proceeding. No copies or any dissemination of the PSI, a confidential court document, or information contained therein shall be made. Unauthorized copying or disclosure will be an act in contempt of court and be punished accordingly. It is further

11. ORDERED AND ADJUDGED that the United States Probation Office, in consultation with the Sentencing Guideline Administration Committee, shall promulgate policies and procedures with respect to the implementation of this Administrative Order. It is further

12. ORDERED AND ADJUDGED that the Sentencing Guideline Administration Committee shall meet on a regular basis to review the adequacy of existing sentencing procedures promulgated under this Order and make periodic recommendations to the Court with respect to modification of this Administrative Order.

DONE AND ORDERED in chambers this 16th day of October, 1987.


James Lawrence King
Chief U.S. District Judge
Southern District of Florida

Copies furnished to:

All Southern District Judges
All Southern District Magistrates
United States Attorney
Federal Public Defender
Clerk of Court
Chief, United States Probation Office
Members of the Sentencing Guideline
Administration Committee:
Carlos Juenke, CUSPO
Hon. James W. Kehoe
Hon. Stanley Marcus
Benson B. Weintraub, Esq.
Rebekah Poston, Esq.
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Harriett Galvin, AUSA
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