

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

March 2, 2006

Before

Hon. WILLIAM J. BAUER, Circuit Judge

Hon. RICHARD A. POSNER, Circuit Judge

Hon. KENNETH F. RIPPLE, Circuit Judge

UNITED STATES OF AMERICA, Plaintiff-Appellee,	]	Appeals from the United
	]	States District Court for
	]	the Southern District of
Nos. 02-4235 and 03-2483 v.	]	Illinois.
	]	
EDWARD SEALS and EARNEST D'MARCO	]	No. 01 CR 30140
JOHNSON,	]	
Defendants-Appellants.	]	Michael J. Reagan, Judge.

ORDER

Following our limited remand under *United States v. Paladino*, 401 F.3d 471 (7th Cir. 2005), the district judge determined that the sentences he imposed on Earnest D'Marco Johnson and Edward Seals would not be different had he known that the sentencing guidelines were advisory. He made this determination after considering briefs and argument from the parties, listening to testimony and reviewing the defendants' presentence investigation reports and the court's private notes. See Orders of December 7, 2005.

We invited the parties to file memoranda addressing the district court's determinations, and they did so. Counsel for defendant Johnson states that "Johnson does not challenge the District Court's December 7, 2005 order".

Similarly, counsel for defendant Seals states that he “cannot argue that the District Court’s refusal to alter the Guideline sentence is an abuse of discretion or that a Guideline sentence is presumptively unreasonable”. Unsurprisingly, the government’s response asserts that both sentences are reasonable.

Because the district judge states that he would have imposed the same sentence post-*Booker*, and because neither defendant has offered anything to rebut the presumption of reasonableness that attaches to accurately calculated sentences, we see no reason why the defendants’ sentences would be deemed unreasonable under the current sentencing regime. Accordingly, we AFFIRM the judgment of the district court as to defendants Johnson and Seals.