

NONPRECEDENTIAL DISPOSITION

To be cited only in accordance with
Fed. R. App. P. 32.1

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

April 18, 2008

Before

JOHN L. COFFEY, *Circuit Judge*

KENNETH F. RIPPLE, *Circuit Judge*

DIANE S. SYKES, *Circuit Judge*

No. 05-4247

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

Appeal from the United States
District Court for the Western
District of Wisconsin.

v.

No. 05 CR 116

LEAVIE T. SCOTT,

Barbara B. Crabb, *Chief Judge*.

Defendant-Appellant.

ORDER

This matter is before the court on remand from the Supreme Court of the United States. On January 7, 2008, the Supreme Court vacated the judgment of this court and remanded the case to this court for further consideration in light of *Kimbrough v. United States*, 552 U.S. ___, 128 S. Ct. 558 (2007).

In their statements filed in accordance with this court's Circuit Rule 54, the parties agree that this case should be remanded to the district court for resentencing. We agree. The defendant adequately preserved the issue of the unwarranted sentencing disparity between crack and cocaine; he is entitled to be resentenced by the district court under the standard set forth in *Kimbrough*.

Accordingly, the sentence of the district court is vacated and the case is remanded for proceedings consistent with this order.

IT IS SO ORDERED