

NONPRECEDENTIAL DISPOSITION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

Submitted November 17, 2010*

Decided November 19, 2010

Before

FRANK H. EASTERBROOK, *Chief Judge*

WILLIAM J. BAUER, *Circuit Judge*

TERENCE T. EVANS, *Circuit Judge*

No. 10-2856

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

MARCUS L. WELTON,
Defendant-Appellant.

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

No. 08-CR-39-BBC-01
Barbara B. Crabb, *Judge.*

Order

Our most recent decision in this criminal prosecution remanded to the district court for reconsideration in light of *United States v. Corner*, 598 F.3d 411 (7th Cir. 2010) (en banc).

On remand, the district judge reduced Welton's sentence from 188 to 151 months' imprisonment, adjusting for the crack-powder ratio in the Sentencing

* This successive appeal has been submitted to the original panel under Operating Procedure 6(b). After examining the briefs and the record, we have concluded that oral argument is unnecessary. See Fed. R. App. P. 34(a); Cir. R. 34(f).

Guidelines. Welton has taken another appeal. His lawyer has filed an *Anders* brief, observing that the district court carried out this court's instructions and that the reduced sentence cannot plausibly be contested as unreasonably high. Welton was notified of counsel's position but has not used his opportunity, see Circuit Rule 51, to respond.

Counsel's evaluation of the appeal is accurate. The only issue is how (if at all) to adjust the sentence in light of the discretion recognized by *Corner*. The district judge used that discretion, and an attack on the 151-month term would be frivolous. Counsel's motion to withdraw is granted, and the appeal is dismissed as frivolous.