



Published: 10.03.2007

Drug-sentence disparities get review by high court

THE ASSOCIATED PRESS

WASHINGTON — The punishment should fit the crime is an axiom of criminal justice.

But what happens when lawmakers dictate that similar crimes should have differing penalties or when sentences vary from courtroom to courtroom?

The Supreme Court wrestled with these questions Tuesday in a pair of drug cases that included one dealing with a law that calls for tougher punishment for possession and distribution of crack cocaine than the powdered variety.

The crack-powder disparity has a racial dimension because the vast majority of crack offenders are black.

Derrick Kimbrough, a black veteran, received a 15-year sentence for selling crack and powder cocaine, and possessing a firearm. U.S. District Judge Raymond A. Jackson of Norfolk, Va., considered the prison term ample, though federal sentencing guidelines recommended 19 to 22 years.

Brian Gall was given probation for his role in a conspiracy to sell 10,000 pills of Ecstasy after U.S. District Judge Robert Pratt of Des Moines, Iowa, determined that Gall had quit selling drugs several years before he was implicated, graduated from college and built a successful business. The guidelines recommended a 30- to 37-month prison term. Appeals courts threw out both sentences.

The sentencing challenges center on a judge's discretion to impose a shorter sentence than is called for in guidelines established by the U.S. Sentencing Commission.

Three years ago the justices ruled that judges need not strictly follow the guidelines. Instead, appellate courts would review sentences for reasonableness.

Lawyers for Kimbrough and Gall said the court gave judges a lot of room to vary sentences when they cite good reasons. Kimbrough's case did not present the justices with the ultimate question of the fairness of the disparity in crack and powder cocaine sentences.

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