

Monday, December 10, 2007

Crack sentencing

On the SCOTUSblog this morning came the news that the Supreme Court isn't 100% evil after all (as John McEnroe might say). Instead, they've decided that judges are permitted to give below-Guidelines sentences to those sentenced for crack-related crimes, and are permitted to take into account the large disparity between crack sentences and powder cocaine sentences when deciding the sentence. The Fourth Circuit had held that "a sentence 'outside the guidelines range is per se unreasonable when it is based on a disagreement with the sentencing disparity for crack and powder cocaine offenses."

At the same time that I'm glad, substantively, about this decision, I can't help but agree with Justice Thomas that this whole sentencing thing, post-Booker, is turning into a quagmire to rival some of the Brennan-Court criminal procedure issues a generation ago.

Posted by Jason Wojciechowski in Law at 14:16