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The Decision in *United States v. Gregory*: An Earlier Sentence Served in a Juvenile Detention Facility Can Make an Individual Qualify as a Career Offender under the Federal Sentencing Guidelines, Likely Adding Several Years to the Sentence

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I. INTRODUCTION

The United States Court of Appeals for the Seventh Circuit agreed with the majority of circuits and determined that a felony conviction obtained in an adult court, but served in a juvenile detention facility, qualified as a prior felony conviction under the career offender guidelines.¹ In a unanimous decision, the three-judge panel in *United States v. Gregory* upheld the district court's decision, finding that a conviction of robbery for the amount of thirty dollars that the defendant committed when he was only fifteen years old, counted as one of his two predicate convictions, triggering the career-offender sentence enhancement.²

The career offender guidelines were created pursuant to a congressional directive with the intent to provide sentences at the statutory maximum for specifically defined repeat violent and drug offenders.³ However, the Sentencing Commission drastically

1. *United States v. Gregory*, 591 F.3d 964 (7th Cir. 2010).

2. *Gregory*, 591 F.3d 964.

3. Amy Baron-Evans, Jennifer Coffin &, Sara Noonan, *Deconstructing the Career Offender Guideline*, APR. 25, 2010, FEDERAL DEFENDER, 2 (Apr. 25, 2010), http://www.fd.org/pdf_lib/Deconstructing%20the%20Career%20Offender%20Guideline%2014.2010.pdf.

departed from this directive, applying severe punishments to a broad class of offenders not described by Congress, without reason or careful study, and contrary to the advice of the courts and empirical evidence.⁴ Consequently, although the term "career offender" may create the perception of a vicious convict with an extensive criminal background, the guidelines only require two prior felony convictions of either a drug or violent offense. A person qualifies as a career offender under the Federal Sentencing Guidelines if:

- (1) the defendant was at least eighteen years old at the time the defendant committed the instant offense of conviction; (2) the instant offense of conviction is a felony that is either a crime of violence or a controlled substance offense; and (3) the defendant has at least two prior felony convictions of either a crime of violence or a controlled substance offense.⁵

The third requirement, on its face, seems relatively straightforward. However, interpretation of this requirement has split the circuits when one or both of the prior convictions occurred while the defendant was a minor and was sentenced, not to prison, but to a juvenile detention facility.⁶

This paper will begin by analyzing the Seventh Circuit's decision in *United States v. Gregory*. Next, it will explain how the other circuits have interpreted United States Sentencing Guidelines Section 4B1.1, the career offender guidelines. After exploring each side of the circuit split, this paper will suggest that a conviction, occurring when an individual is under the age of eighteen and sentenced to a juvenile detention facility, should not qualify as a prior felony conviction under the career offender guidelines. Then the substantive reasonableness of *Gregory's* sentence will be evaluated. Finally, the rule of lenity will be discussed,

4. *Id.* at 7-8.

5. *Gregory*, 591 F.3d at 966-67 (citing U.S. SENTENCING GUIDELINES MANUAL § 4B1.1(a) (2002)).

6. *Id.* at 967. The Third, Ninth, and Eleventh Circuits have held that the location where individuals serve their sentences is irrelevant. *Id.* (citing *United States v. Moorer*, 383 F.3d 164 (3d Cir. 2004), *cert denied*, 544 U.S. 1024 (2005); *United States v. Carrillo*, 991 F.2d 590 (9th Cir. 1993); *United States v. Pinion*, 4 F.3d 941 (11th Cir. 1993)). In contrast, the Fourth Circuit has held that only sentences served under the state's adult sentencing laws and served in an adult prison fulfill the third requirement of the career offender guidelines. *Gregory*, 591 F.3d at 967 (citing *United States v. Mason*, 284 F.3d 555 (4th Cir. 2002)).

which provides the appropriate way of resolving ambiguous criminal statutes.

II. BACKGROUND

In *Gregory*, the defendant, Isaiah Gregory, was indicted for several drug trafficking offenses, specifically distribution and possession with intent to deliver cocaine and crack cocaine.⁷ Approximately twelve months later, Gregory pled guilty to all charges.⁸ Prior to sentencing, the probation officer prepared a presentence investigation report,⁹ which classified Gregory as a career offender under United States Sentencing Guidelines Section 4B1.1.¹⁰ The presentence investigation report identified two predicate felony convictions that ultimately laid the foundation for the career offender sentence enhancement imposed in this case.¹¹ The two prior convictions were first, at the age of fifteen, Gregory was charged with robbery for stealing thirty dollars from an individual by force, and second, at the age of nineteen, he pled guilty to aggravated discharge of a firearm.¹² For the robbery conviction, Gregory served less than two years in a juvenile detention facility.¹³ The defendant argued that this offense did not qualify as a prior offense under the career sentencing guidelines because he was only fifteen years of age at the time of the incident and he was confined in a juvenile hall instead of an adult prison.¹⁴ In response, the government argued that Gregory was convicted as an adult, not a juvenile, and his term of imprisonment in a juvenile facility met the requirement of United States Sentencing Guidelines Section 4B1.2(a)¹⁵ because it exceeded one year.¹⁶ The gov-

7. *Id.* at 965.

8. *Id.*

9. A presentence investigation report is defined as, “[a] probation officer’s detailed account of a convicted defendant’s educational, criminal, family, and social background, conducted at the court’s request as an aid in passing sentence.” BLACK’S LAW DICTIONARY 1221 (8th ed. 2004).

10. *Gregory*, 591 F.3d at 965.

11. *Id.*

12. *Id.*

13. *Id.* at 968.

14. *Id.* at 965.

15. This section defines terms used in Section 4B1.1. Section 4B1.2(a) reads as follows:

(a)The term “crime of violence” means any offense under federal or state law, punishable by imprisonment for a term exceeding one year, that –

(1)has as an element the use, attempted use, or threatened use of physical force against the person of another, or

ernment also argued that individuals under the age of eighteen who are convicted as adults are included in the criminal history section of the guidelines.¹⁷

Agreeing with the government, the district court determined that because Gregory's conviction was handled in the adult division of the criminal court, his age and subsequent sentence to a juvenile facility was irrelevant.¹⁸ Therefore, the court found that Gregory was a career offender and computed the applicable guideline range as 262 to 327 months.¹⁹ Gregory was given the maximum sentence of 327 months, more than twenty-seven years in prison.²⁰ The district court requested supplemental briefs from both parties regarding the effect the career offender classification had on the length of the defendant's sentence.²¹ The government believed that if Gregory was not classified as a career offender the applicable guideline range would have been 121 to 151 months, while the defendant argued that the range would have been 120 to 135 months.²² Consequently, the fact that the defendant was classified as a career offender more than doubled his sentence.²³ Despite the defendant's age of only fifteen years old, the thirty-dollar charge for robbery, and the sentence in a juvenile detention center, the district court concluded that the high-end sentence of 327 months was warranted.²⁴

On appeal, the sole issue before the Seventh Circuit was whether the robbery that Gregory committed when he was fifteen years old counted as a prior felony conviction under the United States Sentencing Guidelines, thereby making him a career offender.²⁵ The court recognized the substance of this issue and that it was at the heart of a circuit split.²⁶ The Fourth Circuit's decision was the only decision that was analogous to Gregory's argument, while the Third, Ninth, and Eleventh Circuits had sided with the govern-

(2) is burglary of a dwelling, arson, or extortion, involves use of explosives, or otherwise involves conduct that presents a serious potential risk of physical injury to another.

U.S. SENTENCING GUIDELINES MANUAL U.S.S.G. § 4B1.2(a) (2010).

16. *Gregory*, 591 F.3d at 965-66.

17. *Id.* at 966 (citing U.S. SENTENCING GUIDELINES MANUAL § 4A1.2(d) (2010)).

18. *Id.*

19. *Id.*

20. *Id.*

21. *Gregory*, 591 F.3d at 966.

22. *Id.*

23. *Id.*

24. *Id.*

25. *Id.* at 967.

26. *Gregory*, 591 F.3d at 967.

ment's contentions.²⁷ Acknowledging the circuit split, the Seventh Circuit judges explained that "[t]he difference of opinion centers on the question whether, in addition to distinguishing between adult and juvenile *convictions*, the [g]uidelines also call for distinguishing between adult and juvenile *sentences*, depending on whether the sentence is imposed pursuant to the adult or juvenile criminal code."²⁸ If the Seventh Circuit concluded that it was appropriate to distinguish between adult and juvenile sentences, then Gregory would not be deemed a career offender; however, if the judges decided that the type of sentence Gregory received for his prior conviction was irrelevant, then he would be considered a career offender and his prison term would be more than doubled.

The court began its analysis by recognizing the Fourth Circuit's view in *United States v. Mason*²⁹ that if an individual is tried in an adult court, but sentenced to a juvenile facility, it cannot count as a prior felony under the career offender guidelines because an adult conviction requires an adult sentence.³⁰ The Fourth Circuit explained that the word imprisonment applied only to adult convictions, while the word confinement applied to both juvenile and adult dispositions.³¹ The language "sentence of imprisonment" as used in United States Sentencing Guidelines Section 4A1.2(d)(1) of the career offender guidelines, refers to offenses committed prior to the age of eighteen.³² Therefore, according to the Fourth Circuit, confinement in a juvenile detention facility cannot count as a predicate offense because a sentence of imprisonment only applies under the state's adult sentencing laws.³³

Next, the Seventh Circuit expressed its dissatisfaction with this interpretation and noted that the Third, Ninth, and Eleventh Cir-

27. *Id.* The Third, Ninth, and Eleventh Circuits have held that the location where individuals serve their sentences is irrelevant. *Id.* (citing *Moorer*, 383 F.3d at 167-69; *Carriello*, 991 F.2d at 593-94; *Pinion*, 4 F.3d at 943-45). In contrast, the Fourth Circuit has held that only sentences served under the state's adult sentencing laws and served in an adult prison fulfill the third requirement of the career offender guidelines. *Id.* (citing *Mason*, 284 F.3d at 559-62).

28. *Id.*

29. 284 F.3d 555.

30. *Id.* at 562.

31. *Gregory*, 591 F.3d at 967 (citing *Mason*, 284 F.3d at 560).

32. *Id.* (citing U. S. SENTENCING GUIDELINES MANUAL § 4A1.2(d)(1) (2010)). Section 4A1.2(d)(1) reads as follows: "(d) Offenses Committed Prior to Age Eighteen: (1) If the defendant was convicted as an adult and received a sentence of imprisonment exceeding one year and one month, add 3 points under § 4A1.1(a) for each such sentence." U.S. SENTENCING GUIDELINES MANUAL § 4A1.2(d) (2010).

33. *Mason*, 284 F.3d at 562.

cuits have not been convinced by this argument either.³⁴ In *United States v. Moorer*,³⁵ the Third Circuit based its decision solely on the definition of a prior felony conviction provided by United States Sentencing Guidelines Section 4B1.2 and Comment 1 to the section.³⁶ The pertinent section of the guidelines defines a prior felony conviction by an individual less than eighteen years of age as “[a] conviction for an offense committed prior to age eighteen is an adult conviction if it is classified as an adult conviction under the laws of the jurisdiction in which the defendant was convicted.”³⁷ Relying on this definition, the judges in the Third Circuit believed that a prior felony conviction is determined exclusively on the kind of conviction the defendant had, not the type of sentence given.³⁸ Therefore, the Third Circuit concluded that a prior felony conviction included any state conviction that the laws of the state counted as an adult conviction, regardless of the actual sentence imposed.³⁹

Agreeing with the Third Circuit, both the Ninth Circuit in *United States v. Carrillo*,⁴⁰ and the Eleventh Circuit in *United States v. Pinion*,⁴¹ established that the prior felony conviction definition provided by United States Sentencing Guidelines Section 4B1.2, Comment 1, required only a determination of the type of conviction the defendant was given.⁴² In addition to this argument, the judges of the Ninth and Eleventh Circuits determined that the minority view of the Fourth Circuit was contrary to the purposes animating the career offender guidelines.⁴³ The three judge panel in *United States v. Carrillo* explained that the career criminal offender’s punishment is based on the number of past offenses as well as the seriousness of each crime.⁴⁴ When an individual is deemed a career offender, the sentence is more severe because the offender has demonstrated an unwillingness to change his behavior or an inability to rehabilitate.⁴⁵ Therefore, the Ninth and Eleventh Circuits concluded that if a juvenile later commits two

34. *Gregory*, 591 F.3d at 967.

35. *Moorer*, 383 F.3d 164.

36. *Id.*

37. *Id.* (citing U.S.S.G. § 4B1.2, cmt. n.1 (2010)).

38. *Id.*

39. *Id.*

40. *Carrillo*, 991 F.2d at 594.

41. *Pinion*, 4 F.3d at 945.

42. *Gregory*, 591 F.3d at 967.

43. *Carrillo*, 991 F.2d at 594-95; *Pinion*, 4 F.3d at 945.

44. *Carrillo*, 991 F.2d at 594-95 (citing U.S.S.G. § 4B1.1 (2010)).

45. *Id.*

additional crimes, then the goal of rehabilitation has failed and the career offender sentencing enhancement should be applied.⁴⁶

Finally, following the majority position, the Seventh Circuit concluded that the only question of importance is whether the offender was convicted as an adult or juvenile, rendering the sentence imposed irrelevant.⁴⁷ The judges explained that “[p]eople served their sentences in many different places: some are moved to private prisons; some wind up spending time in the facilities of another state or the federal government; some are lodged in county jails. The location is unimportant. What does matter is the nature of the underlying conviction.”⁴⁸ Therefore, the court concluded that Gregory was appropriately classified as a career offender.⁴⁹ The judges also determined that the 327-month sentence was not substantively unreasonable and affirmed the judgment of the district court.⁵⁰

III. INTERPRETING THE CAREER OFFENDER GUIDELINES

The Seventh Circuit, similar to the Third, Ninth, and Eleventh Circuits, misinterpreted the career offender guidelines and erroneously applied the career offender sentencing enhancement in situations involving a prior juvenile sentence. As stated above, the defendant in *Gregory* was convicted of robbery when he was fifteen years old and received a sentence exceeding one year and one month.⁵¹ This conviction should not have been considered a predicate offense under the career offender guidelines because Gregory was less than eighteen years old at the time of his robbery conviction and served his sentence in a juvenile facility.

Section 4A1.2(d) of the sentencing guidelines deals specifically with offenses committed prior to the age of eighteen.⁵² In order for

46. *Carrillo*, 991 F.2d at 594-95; *Pinion*, 4 F.3d at 945.

47. *Gregory*, 591 F.3d at 967.

48. *Id.*

49. *Id.*

50. *Id.*

51. *Id.* at 966. Under Section 4A1.2(d)(1) of the sentencing guidelines, the defendant must have received a sentence of imprisonment exceeding one year and one month in order for his conviction to qualify as a predicate offense. U.S.S.G. § 4A1.2(d)(1).

52. U.S.S.G. § 4A1.2(d) reads as follows:

(d) Offenses Committed Prior to Age Eighteen

(1) If the defendant was convicted as an adult and received a sentence of imprisonment exceeding one year and one month, add 3 points under § 4A1.1(a) for each such sentence.

(2) In any other case,

a conviction to count as a predicate offense under Section 4A1.2(d), the defendant must be convicted as an adult and receive a *sentence of imprisonment* exceeding one year and one month, or the defendant must receive an *adult or juvenile sentence to confinement* exceeding sixty days and must have participated in the instant offense within five years of his release from confinement of the prior offense.⁵³ The ambiguity involving the type of confinement that is necessary to trigger the career offender sentence enhancement is the basis for the circuit split. Essentially, following an adult conviction, the court must determine whether Section 4A1.2(d)(1) requires a distinction to be made between incarceration in an adult prison and a juvenile facility. The Fourth Circuit correctly determined that Section 4A1.2(d) does not apply when a defendant is sentenced to a juvenile facility unless the instant offense occurred within five years of the prior offense.⁵⁴ In contrast, the judges of the Seventh Circuit as well the Third, Ninth, and Eleventh Circuits have misinterpreted the career offender guidelines, concluding that the type of incarceration imposed is irrelevant.⁵⁵

An examination of the Sentencing Commission's commentary will demonstrate that the majority of circuits have misinterpreted Section 4A1.2(d) of the career offender guidelines.⁵⁶ The commentary to Section 4A1.2(d) is as follows:

Offenses Committed Prior to Age Eighteen. Section 4A1.2(d) covers offenses committed prior to age eighteen. Attempting to count every juvenile adjudication would have the potential for creating large disparities due to different availability of records. Therefore, for offenses committed prior to age eighteen, only those that resulted in adult sentences of imprisonment exceeding one year and one month, or resulted in imposition of an adult or juvenile sentence or release from con-

(A) add 2 points under § 4A1.1(b) for each adult or juvenile sentence to confinement of at least sixty days if the defendant was released from such confinement within five years of his commencement of the instant offense.

(B) add 1 point under § 4A1.1(c) for each adult or juvenile sentence imposed within five years of the defendant's commencement of the instant offense not covered in (A).

U.S.S.G. § 4A1.2(d).

53. U.S.S.G. § 4A1.2(d)(1) (emphasis added).

54. *Mason*, 284 F.3d at 559-62.

55. *Moorer*, 383 F.3d at 167-69; *Carrillo*, 991 F.2d at 593-94; *Pinion*, 4 F.3d at 943-45.

56. The Sentencing Commission offers commentary in order to help explain the Guidelines. U.S.S.G. § 1B1.7 (1998). Also, because the commentary pertaining to Section 4A1.2(d) explains the guideline and is not inconsistent with the guideline, it is considered binding. See *United States v. Souther*, 221 F.3d 626 (4th Cir. 2000).

finement on that sentence within five years of the defendant's commencement of the instant offense are counted. To avoid disparities from jurisdiction to jurisdiction in the age at which a defendant is considered a 'juvenile,' this provision applies to all offenses committed prior to age eighteen.⁵⁷

First, it is important to note that the court in *Gregory* was unable to determine whether more than five years had passed from Gregory's prior sentence and release from the juvenile facility to the commencement of the latest offense. Therefore, if Gregory's conviction is to be counted, it must qualify under Section 4A1.2(d)(1), requiring an adult conviction and a sentence of imprisonment exceeding one year and one month. Notice that Section 4A1.2(d)(1) uses the language "sentence of imprisonment" when referring to an adult conviction.⁵⁸ The Sentencing Commission's commentary further explains that "sentence of imprisonment" refers only to an adult sentence of imprisonment.⁵⁹ Conversely, under Section 4A1.2(d)(2) the language "sentence to confinement" is used when referring to both juvenile and adult dispositions.⁶⁰ When the Commission used the words "imprisonment" and "confinement" in the guideline, it intended for each word to have a different connotation.⁶¹ This accords with common legal word usage: the word "imprisonment" is not typically used when referring to a juvenile disposition; rather, a less intimidating word such as "confinement" is customarily used.⁶² Thus, Section 4A1.2(d)(1) of the career offender guidelines requires that a defendant receive both an adult conviction and an adult prison sentence exceeding one year and one month in order for it to count as a predicate offense.

Gregory did not receive an adult prison sentence, but instead he was sent to a juvenile detention facility.⁶³ Therefore, applying the guidelines correctly, Gregory's conviction of robbery for the amount of thirty dollars when he was only fifteen years old should not have qualified him as a career offender. The significance of this error was horrific. The career offender classification more

57. U.S.S.G. § 4A1.2, cmt. n.7 (1998).

58. U.S.S.G. § 4A1.2(d)(1).

59. U.S.S.G. § 4A1.2, cmt. n.7 (1998).

60. U.S.S.G. § 4A1.2(d)(2).

61. *Mason*, 284 F.3d at 560.

62. *Id.* (See also *United States v. Johnson*, 28 F.3d 151, 155-56 (D.C. Cir. 1994); *United States v. Davis*, 929 F.2d 930, 933 (3d Cir. 1991)).

63. *Gregory*, 591 F.3d at 965, 958.

than doubled Gregory's applicable guideline range, allowing the court to sentence him to the maximum penalty of 327 months in prison.

IV. EVALUATING THE SUBSTANTIVE REASONABLENESS OF GREGORY'S SENTENCE

Not only did the Seventh Circuit judges misapply the career offender guidelines, but they also failed to find the severe sentence imposed on Gregory substantially unreasonable. A court must impose a sentence that is both consistent with the sentencing guidelines and substantively reasonable.⁶⁴ In evaluating the reasonableness of Gregory's sentence, the Seventh Circuit erred when it relied solely on the predetermined guideline range.⁶⁵ Relying exclusively on a predetermined guideline range is completely inadequate when an individual's freedom is at stake. It is crucial for a court to consider the totality of circumstances⁶⁶ because the sentencing guidelines are only one factor that a court is required to consider when determining an appropriate sentence.⁶⁷ Evaluating all relevant factors is especially necessary in cases where the defendant has committed a drug or violent offense. As stated above, the career offender guidelines were initially based on a congressional directive to provide sentences at the statutory maximum for specifically defined repeat violent and repeat drug offenders.⁶⁸ The Sentencing Commission drastically departed from this directive, applying severe punishments to a broad class of offenders not described by Congress, without reason or careful study, and contrary to advice of the courts and actual empirical evidence.⁶⁹ Therefore, the sentencing guidelines are far less accurate when applied to cases involving a crime of violence or a controlled substance offense. This inaccuracy, combined with the court's failure

64. Brief of Defendant-Appellant, *United States v. Gregory*, 591 F.3d (7th Cir. 2009) (No. 09-2735). (citing *Gall v. United States*, 552 U.S. 38, 49 (2007); *United States v. Turner*, 569 F.3d 637, 640 (7th Cir. 2009)).

65. Brief of Defendant, *Gregory*, 591 F.3d 964 (No. 09-2735). It is important to note that a court must not automatically presume that just because a sentence falls within the guideline range that it is to be considered reasonable. *Rita v. United States*, 551 U.S. 338, 350-51 (2007).

66. Brief of Defendant, *Gregory*, 591 F.3d 964 (No. 09-2735) (citing *Rita*, 551 U.S. at 350-51).

67. *Id.* (citing *Kimbrough v. United States*, 552 U.S. at 85, 90-91 (2007); *Gall*, 552 U.S. at 59).

68. Baron-Evans, *supra* note 3, at 5-7.

69. Baron-Evans, *supra* note 3, at 5-7.

to consider all other relevant factors, led to Gregory's extremely unreasonable sentence.

A sentence is considered appropriate if it is "sufficient, but not greater than necessary, to achieve the goals of sentencing."⁷⁰ In *Gregory*, the totality of circumstances should have been considered to determine such a sentence. For example, with respect to Gregory's first conviction, his age, the amount of money he stole, and the fact that he served his sentence in a juvenile facility are all relevant factors that the court did not consider. As a result, the Seventh Circuit as well as the Third, Ninth, and Eleventh Circuits have created a situation where a naïve adolescent is later punished excessively for a crime he committed when he was just a child. Unquestionably, Gregory should be held accountable for the offenses that he committed as an adult. However, it is extremely unreasonable to double his sentence based on a thirty dollar robbery conviction that he committed when he was only fifteen years old.

V. THE RULE OF LENITY

Even though the court erroneously interpreted the statute and failed to find the sentence unreasonable, the rule of lenity should have been used to reduce Gregory's sentence. The rule of lenity requires ambiguous criminal statutes to be interpreted in favor of the defendant.⁷¹ The difficulty the circuit courts had interpreting Section 4A1.2(d) of the career offender guidelines provides clear evidence of the ambiguity. This rule is especially useful in cases like *Gregory*, where a mandatory minimum sentence is at issue, because an aggressive application of lenity will still result in a sentence that is close to Congress's sentencing intent:

[A]n interpretation that errs on the side of *exclusion* (an interpretive error on the side of leniency) still *permits* the sentencing judge to impose a sentence similar to, perhaps close to, the statutory sentence even if that sentence (because of the court's interpretation of the statute) is not legislatively *required*.⁷²

Conversely, "an interpretation that errs on the side of *inclusion* requires imposing . . . additional imprisonment on individuals

70. 18 U.S.C. § 3553 (2010).

71. *Dean v. United States*, 129 S. Ct. 1849, 1860 (2009) (Breyer, J., dissenting).

72. *Dean*, 129 S. Ct. at 1860 (Breyer, J., dissenting).

whom Congress would not have intended to punish so harshly.”⁷³ As discussed above, the Sentencing Committee did not intend to double an individual’s prison sentence based on a crime committed when he was only fifteen years old. Therefore, at the very minimum, the rule of lenity should have been used to resolve the ambiguous guideline in Gregory’s favor, resulting in a considerably lower sentence.

VI. CONCLUSION

The Seventh Circuit judges misinterpreted Section 4A1.2(d) of the career offender guidelines, failed to find Gregory’s sentence unreasonable, and failed to use the rule of lenity. If the court handled just one of these issues correctly, Gregory’s sentence would have been substantially reduced to a fair and accurate punishment. The Seventh Circuit’s erroneous decision is especially disheartening because of the profound effect its decision had on a young man’s life. In addition, Gregory’s staggering prison sentence not only defies the United States Sentencing Committee’s intentions, it defies the essence of the entire criminal justice system. The fact that a conviction of robbery for the amount of thirty dollars that the defendant committed when he was only fifteen years old added, at the very minimum, nearly fifteen years to Gregory’s sentence seems to undermine the basic principles of fairness and most importantly, justice. Apparently, the Seventh Circuit judges did not consider these fundamental principles when affirming the district court’s opinion.

Additionally, the Seventh Circuit ignored the precedent it would be setting: allowing juvenile sentences to drastically increase later federal sentences will cause profound inconsistencies between similarly positioned offenders. Juvenile court systems vary greatly from state to state with a substantial amount of discretion given to the judges to make a decision. This disparity directly conflicts with the idea of a fairly uniform system that the United States Sentencing Commission intended to create. Hopefully, the United States Sentencing Commission will step in and clarify the career offender guidelines so decisions like *Gregory* will not persist.

Curt W. McMillen

73. *Id.*