



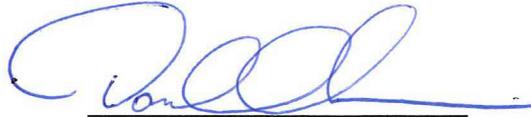
triggering quantities under § 841(b), such that 216 grams of crack cocaine now corresponds with a statutory range of 5-40 years. *See* Pub. L. No. 111-220 § 2(a) (2010). Charles was therefore sentenced for a “covered offense” within the meaning the First Step Act.

Had the Fair Sentencing Act been “in effect at the time the covered offense was committed,” *see* First Step Act of 2018, § 404(b), then Charles’s guidelines range would have been 292-365 months. And while Judge Higgins would almost certainly have imposed a sentence at least five years above the bottom of that range (*see* DE# 96, Sentencing Transcript, PageID#: 279-83), the Court is not bound by Judge Higgins’s assessment as of 1996, and may consider Charles’s post-sentencing rehabilitation, which has been documented in prior proceedings. In light of that rehabilitation, and the fact that Charles has already served over 292 months, the government does not object to Charles’s request that the Court reduce his sentence to time served.

### **Conclusion**

As the government noted last March, its opposition to a sentence reduction under 18 U.S.C. § 3582(c)(2) “had nothing to do with any personal feelings towards Mr. Charles,” and instead reflected the fact that there was simply no legal basis, under then-current law, for the Court to reduce his sentence. (DE# 245, Transcript, PageID#: 742.) *See United States v. Charles*, 901 F.3d 702, 705 (6th Cir. 2018) (explaining that, in light of then-current law, “[t]he federal courts thus may not provide relief for Charles.”). Because Congress has now enacted a new law that *does* appear to make Charles legally eligible for a reduced sentence, the government does not object to the Court exercising its discretion to reduce Charles’s sentence on Counts One, Four, and Seven to time served.

Respectfully submitted,



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#### **CERTIFICATE OF SERVICE**

I hereby certify that on January 2, 2019, a true and correct copy of the foregoing will be served electronically via the Court's CM/ECF system to Mariah A. Wooten and Michael C. Holley, counsel for defendant Matthew Otis Charles.

/s/ Cecil VanDevender  
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Assistant U.S Attorney