

**Garnett Thomas Eisele**  
**Eastern District of Arkansas**

*It's hard to find a federal judge who finds the sentencing guidelines are working well. It's a system I've said is not worthy of this country.*<sup>1</sup>

**Appointed by:** President Richard M. Nixon, 1970.

**Law School:** Harvard Law School, LL.B. 1950, LL.M. 1951.

**Military Service:** U.S. Army, 1943-46; U.S. Navy Reserve, 1952-61.

**Prior Legal Experience:** Private Practice 1951-53 & 1961-69; Owens, McHaney, Lofton & 1956-60.

**Government Service:** Assistant U.S. Attorney, 1953-55; Legal Advisor to Governor of Arkansas, 1966-69.

**Background and Reputation in the Legal Community**

Judge Eisele served in the Army from 1943 to 1946 and then attended college and law school. He remained in private practice until his appointment to the federal bench. While a lawyer, he served as legal advisor to the Governor of Arkansas and was a delegate to the Arkansas Constitutional Convention. Judge Eisele has been very active in bench and bar activities including the ABA National Conference of Federal Trial Judges and the Judicial Conference Ad Hoc Committee on Bankruptcy Legislation.

Lawyers in his district proclaim that Judge Eisele is “undoubtedly one of the finest federal judges of this century.” He is considered both exceptionally bright and courteous to those who appear before him. Both criminal and civil attorneys believe him to be “very, very conscientious” and impartial. One said, “He has no bias in any kind of case.”

Although best known for his desegregation decisions involving the Little Rock school system, Judge Eisele has also ruled in some controversial criminal cases. In 1983, he refused to dismiss a drug case in which confidential documents from a defense attorney’s office were leaked to and reviewed by federal prosecutors. The judge ordered a number of steps to ensure the defendant got a fair trial including ensuring that the prosecutor who tried the case would be unaware of the contents of the documents and prohibited their use at trial. Judge Eisele’s law clerk told the National Law Journal that the judge relied on the general principle “that court should focus on the means for ensuring a fair trial while allowing a prosecution to go forward wherever possible, instead of trying to punish prosecutorial misconduct.”

At sentencing, lawyers say he is fair but tough, especially on defendants who “have had every advantage in life. He’s more lenient with underprivileged defendants.” They also agree that he tends to sentence in the middle of the Guidelines though when he comes down on a defendant, “Its usually deserved.”

In 1991, Judge Eisele was solicited to write an article by the editors of the Federal Probation journal about the Sentencing Guidelines. In no uncertain terms, Judge Eisele made clear his view that the Guidelines regime presented significant dangers to basic notions of justice in our society, stating

I have characterized this system as a dark, sinister, and cynical crime management program. It is in effect a reincarnation of those systems prevalent in Central and Eastern European countries 150 years ago. It has a certain Kafkaesque aura about it. The real sentencing power in such systems is in the hands of the police and the prosecutor. Even those citizens who believe judges are too soft on criminals should pause before embracing a system so at odds with traditional American values.<sup>2</sup>

### **Iva Janice Bonner**

**Charge:** Conspiracy to Possess with Intent to Distribute Crack Cocaine.  
**Sentence:** 168 months.  
**Projected Release Date:** October 27, 2009.

Iva Bonner graduated from Stillman College in 1978 with a bachelors degree in health and physical education. As a young woman, she married, worked, raised a son, and participated in various civic and church activities.<sup>3</sup> In 1984, however, she became addicted to crack and her life was devastated.<sup>4</sup> Her marriage ended and she began committing a variety of petty criminal acts to feed her habit. In 1989, she was convicted of theft, passing a bad check, and possession with intent to distribute drugs. She again got into trouble in 1993 and 1994 for two more theft offenses. Nevertheless, the state courts in California (and one case in Alabama) never imposed a sentence of than more 90 days to serve on any of these convictions.<sup>5</sup>



Leniency from the criminal justice system ended in 1997 when she was arrested at the Little Rock, Arkansas bus station carrying 1.8 kilograms of crack cocaine. When debriefed by the arresting officers, she admitted that she had been paid \$1000.00 to make the trip and that she had done so twice before. Based on the quantity of drugs, this case was brought in federal court where she pled guilty to the charge. Recognizing that drug addiction

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Federal Probation December 1991 at 20. Judge Eisele also contended that disparity had increased, not decreased under the Guidelines but that this was hidden in the offices of the Commission, prosecutors, probation officers, police departments, and “even law enforcement officers on the streets.” *Id.* However, he did not advocate a return to unfettered discretion but instead proposes in this article a series of steps to provide a system of guided discretion for judicial discretion. *Id.* at 25.

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Iva was a member of the Tuscaloosa Jaycettes and participated in the Young Matron’s Society at the Tenth Street Baptist Church.

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Iva admits that she had used drugs and alcohol before this period, sometimes heavily, but without falling into addiction and crime.

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She did receive substantial periods of probation and suspended prison time on these convictions.

was the underlying problem, the court released her pending sentence to an in-patient drug treatment program.

In determining her sentence, although she claimed to know her supplier in Los Angeles only by his first name, there was no disagreement that she accepted responsibility for her actions and therefore was entitled to a three point offense level reduction. The government also agreed to a two point reduction for having a minor role in the conspiracy. Despite these reductions and her progress with her addiction while on release,<sup>6</sup> the quantity of drugs and her criminal record was sufficient to drive her Guideline range significantly above the ten year mandatory, with the probation officer calculating a range of 188 to 210 months.

At sentencing, Judge Eisele reminded Iva's friends and family who had written letters on her behalf that "under the sentencing guidelines regime, the discretion of the Court is much less. In fact, it's minuscule compared to what it used to be . . . ." <sup>7</sup> He also noted that Iva's criminal history, which drove the sentence higher, was directly related to her severe drug addiction which began "essentially at age 35." <sup>8</sup>

Iva's attorney attempted to get the judge to reduce her sentence by asking the court to go beyond the plea agreement and grant her another point reduction based on his contention that she played a minimal, not just a minor role in the crime. Much as he sympathized with her plight, Judge Eisele denied this request. He stated that he believed she gained significant benefits from the plea agreement and the government's concessions therein. Thus, while his ruling on this issue "has no reflection upon my view of whether the guidelines produce a harsh sentence," <sup>9</sup> he felt bound by the plea agreement. <sup>10</sup>

When it was her turn to address the court, Iva stated in part that she

. . . want[ed] to thank the Court for giving the time to go into rehab and to start getting my life on the right road. I feel like I just can't express, you know, the remorse I feel for what I've done. Having a chance to do it again, I would never do it again. I wish there was some way I could convey my sorrows for what I have done. You know,

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The probation officer spoke at the sentencing hearing about some minor problems concerning their rules while she was at the treatment facility, but there was no question that she remained drug free in that period and that she was paid to be the "on-call person after hours" at this facility and performed that duty satisfactorily. On this record, Judge Eisele permitted her to continue out-patient drug treatment until her self-reporting date to her first facility. Sentencing Transcript at 11-17, United States v. Bonner, Cr. 97-100, ( E.D. Ark. Nov. 17, 1997).

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Sent. Tr. at 4.

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Sent. Tr. at 5.

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Sent. Tr. at 8.

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Judge Eisele also noted that under his interpretation of the Guidelines, he might not have seen fit to grant her a minor role adjustment, but that he was willing to in this case because of the government's concession in the plea agreement. Sent. Tr. at 8.

I'm just praying that everyone, my family, the Court, my attorneys, everyone will forgive me.<sup>11</sup>

In response, Judge Eisele remarked that “this is really a sad story. If you look at this family background and the opportunities, the education and all the family support that this lady now has, this outcome is really truly tragic. I'm going to impose the minimum sentence that I may under the guidelines. . . .”<sup>12</sup>

At the time, the minimum sentence the judge believed he could impose was 188 months. However, her federal public defender later realized she had received a two points increase in her criminal history category for committing this offense while on probation for a theft charge in Los Angeles. In fact, she had completed this period of probation before the relevant conduct in this case began. Therefore, she should have been sentenced under the range for Criminal History Category III, not IV. The government conceded that there had been an error and the court granted a motion to correct sentence. On November 25, 1998, Judge Eisele resentenced Iva to the minimum sentence in the corrected range of 168 months.

Iva writes from prison that while she still believes that “her severe drug addiction at that time was taken advantage of by the system,”<sup>13</sup> she is moving ahead with her life and with her rehabilitation. She reports that in 76 months of incarceration, she has received approximately sixty-five certificates of achievement. She also notes that her mother has been very supportive and “has played a vital role in keeping the family focused and making sure I have family visits.”<sup>14</sup> Her sons are doing well. The older one graduated *magna cum laude* from Stillman College in 2003 and then entered the Coast Guard Academy. Her younger son, however, is somewhat rebellious and living with his father.

She writes in retrospect that “I realize I broke the law, however I know that I would never have considered any criminal behavior had I not gotten involved with drugs.”<sup>15</sup>

*Compiled from Sentencing Transcript, PSI, inmate letters, PACER docket sheet, correspondence with federal public defender.*

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11  
Sent. Tr. at 10.

12  
Sent. Tr. at 10.

13  
November 24, 2003 to author at 1 (on file with author).

14  
Id.

15  
Id.