

Marilyn L. Huff
Southern District of California

[The] Court takes no pleasure in having to impose such a lengthy sentence. If it were up to the Court, if I had the discretion, I would think that ten years would be sufficient and would be more in line with the sentence that the Court has given the other seventeen defendants that I have sentenced.¹

Appointed by: President George H.W. Bush, 1991.

Law School: University of Michigan Law School, J.D., 1976.

Prior Legal Experience: Gray, Cary, Ames & Frye, 1976-1991.

Background and Reputation in the Legal Community

Judge Huff brought many years of civil litigation experience with a San Diego law firm to the bench. Her practice was focused on media law, personal injury, and general business litigation. As a lawyer, Judge Huff was involved in many bar activities and community organizations. She served on committees such as the Fast Track Consortium of the California Bar Association and was the Chair of the Judicial Evaluations Committee. As a judge, she continued to serve on the League of Women Voters Advisory Board and on the Board of Directors of the American Lung Association of San Diego.

Lawyers that appear before Judge Huff see her as a “businesslike,” no-nonsense judge who is “very bright and very experienced.” She expects professionalism in her courtroom at all times and does not tolerate sloppy lawyering or lack of preparation. Judge Huff will “get involved from the bench” and likes to keep things moving quickly in her courtroom. In civil matters, attorneys find her “evenhanded” but “economically conservative” and “slightly defense-oriented.” Criminal defense lawyers believe that Judge Huff is fair to defendants although she “isn’t going to give them too many breaks.” On sentencing, lawyers find that Judge Huff does not depart from sentencing guidelines and that she tends to be on the “conservative end of guidelines.” More than one attorney stated that Judge Huff is “compassionate in sentencing,” but not lenient.

Robert Van Doren

Charge: Conspiracy to Distribute & Aiding and Abetting Distribution of Crack Cocaine.

Sentence: 20 years (later reduced to 10 years).

Release Date: July 16, 2004.

Robert Van Doren ran track and played football at the University of Southern California. He attended for four and a half years but fell a few credits short of obtaining his degree. However, he went on to play professional football with the San Francisco 49ers for four years before his football career prematurely ended with a preseason injury. Afterwards, he worked as an engineering consultant in both the manufacturing and industrial engineering fields.

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Sentencing Transcript at 55, *United States v. Robert Van Doren*, Cr. 96-CR-1082 (S.D. Cal. November 14, 1997).

From 1979 to 1995, he did work for companies such as Boeing, McDonnell-Douglas, and other leading companies. Between consulting jobs, he also was also self-employed as a desktop publisher. During that time, Robert lived with his common law wife, Phyllis, for twenty-two years. The couple, separated in 1987 and have one daughter, Cleo.



Robert's problems began in 1995 when he was diagnosed with prostate cancer and underwent radiation treatment. Although the treatment was successful and his cancer is in remission, he used marijuana sprinkled with cocaine to help him cope with radiation therapy.² His illegal drug use led him, at age 65, to become involved on the selling side. He eventually became a street level distributor for Derrick Hines. Although Robert claimed that he didn't know at the time, Hines was allegedly associated with the Los Angeles street gang the Crips and had come down to the San Diego area to set up his own distribution ring.

Robert was first arrested in 1995. He pled guilty to a state drug distribution charge and received three years probation. Unfortunately for Robert, after this conviction he continued his involvement with the Hines' operation which soon became the subject of an intensive federal investigation. Through the use of controlled buys and wiretaps, law enforcement was able to determine that Hines supervised and directed the distribution of cocaine base to approximately seventeen individuals, including Robert, and that Hines was selling either a kilogram or a pound of cocaine a week during the period he was being investigated.

The task force investigating Hines made two controlled buys of crack cocaine from Robert, one of about one gram and then of two ounces. Another 15 grams were found in his apartment, totaling about 65 grams for purposes of sentencing.³ After his federal indictment, Robert was offered a plea bargain that would have required a ten year sentence. Despite numerous audiotapes of drug related conversations and a videotape of the second transaction, he rejected the plea offer and indicated he wanted to go to trial. The government then filed enhancement papers based on his prior conviction, which subjected him to a twenty year mandatory minimum.

On the day the trial was to begin, Robert decided to plead guilty, without the benefit of a plea bargain and even without advance notice to his attorney. He said at the time that he didn't want to make trouble for his friends and family but he later contended he received an anonymous threat in jail. Given the clear factual basis for the plea, the judge had no choice but to impose the sentence even though Hines, the leader, only received a ten year sentence, and his top lieutenant was sentenced to 188 months. In fact, every defendant in this case received a lower sentence than Robert.

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²Robert stated that he had used marijuana on a sporadic basis since 1970.

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³Robert received a break here. The case agent told the probation officer that Robert ordered two ounces of crack every other week from Hines, which could have constituted relevant conduct of upwards of one kilogram. Moreover, Robert could have been held responsible for drug deals by Hines that were reasonably foreseeable to him. However, the prosecutor decided that the 65 grams that was seized from Robert by the police was the "readily provable amount" for purposes of sentencing. Thus, his Guideline range remained below the twenty year statutory mandatory minimum required by his drug prior conviction. *See Sent. Tr. at 42.*

During his presentence interview, Robert tried to downplay his relationship with Hines and claimed he was trying to get out of the drug business before his arrest. Judge Huff did not find these claims credible and noted that she might not have granted acceptance of responsibility if that decision would have had an impact on the sentence. But, this was a moot issue given that the mandatory minimum was far above his Guideline range. She also criticized him for continuing his activities just a month after he was sentenced on the state charge. Nevertheless, despite his attempts to minimize his connections to Hines, Robert did acknowledge that he was wrong to have become involved in drug trafficking that “there aren’t enough words to express my feelings of remorse.”⁴

Judge Huff responded to Robert by saying, “[H]ad I the discretion to depart downward from the sentencing enhancement, I probably would, given his age and physical circumstance with his health condition and the fact that with 19 defendants he’s clearly not the most culpable defendant in this conspiracy.”⁵ She added, it especially “Goes against the judicial grain to give a higher sentence to somebody less culpable than the lead defendant in this case.”⁶ But, faced with the statute, she could “not just ignore the law because of the Defendant’s age.”⁷ Summarizing her views, she concluded by saying

I think it’s an incredibly sad case where you have somebody so talented at the high school level and at college and NFL player that goes on then to have a successful career. Life then apparently took a turn for the worse and his circumstances and he got involved with the wrong people that led him into drug trafficking. And the court takes no pleasure in giving a lengthy sentence. If it were up to the Court, if I had discretion, I would think that 10 years would be sufficient punishment and would be more in line with the sentences that the Court has given the 17 others that I’ve sentenced.⁸

In 2000, Robert filed a post-conviction motion that alleged that his attorney had failed to challenge the finality of his state sentence upon which the enhancement was based. The government stipulated that if this motion were granted, it would accede to a ten year sentence if Robert agreed to abandon all other grounds for appeal for the remainder of his term. Robert readily agreed and the court accepted this resolution to the motion. As a result, Robert was resentenced to the ten year term that Judge Huff thought was appropriate at the time of the initial sentencing.

He became eligible for early release after completing a 500 hour drug treatment program. He writes that he applied for both compassionate release and commutation, but that there was no

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⁴Sent. Tr. at 56.

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Sent. Tr. at 39.

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Id. She estimated that if allowed, she “would probably give him a sentence of either 135 months or 121 months based on a base level 32.”

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Sent. Tr. at 43.

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Sent. Tr. at 55. Robert’s direct appeal was denied by the Ninth Circuit. *See United States v. VanDoren*, 182 F.3d 1077 (9th Cir. 1999).

action on either before the expiration of his now shortened sentence. At the time of his release, his health, but for some arthritis from his football days remained good, and his prostate cancer was in remission.

Compiled from PSI, Sentencing & Plea Transcripts, letters from inmate, news articles, legal memoranda, PACER docket sheet, appellate opinion.