

**Stephen M. Reasoner**  
**Eastern District of Arkansas**

*Why am I here?*<sup>1</sup>

*I think it is a real shame that a person who apparently has been a good husband and father and productive member of society, and so late in his life, with absolutely no criminal record, even as a juvenile, got into such serious, serious, serious business as drug dealing on this level, with this volume. However, in view of the fact that he has led that exemplary life, I am going to sentence him toward the bottom of the sentencing range. Unfortunately for Mr. Johnson, and due to the guideline requirements, that's still a rather stiff sentence.*<sup>2</sup>

**Appointed by:** President Ronald Reagan, 1988.

**Law School:** University of Arkansas, J.D., 1966.

**Prior Legal Experience:** Barret, Wheatley, Smith & Deacon, 1969-1988.

**Background and Reputation in the Legal Community**

Judge Reasoner was in private practice with the Jonesboro, Arkansas law firm, Barret, Wheatley, Smith & Deacon from 1969-1988 until he was appointed to the bench. His commitment to community service activities was also longstanding. He served on the Board of Trustees of the Jonesboro Public Library since 1972 and the Board of Directors of the University of Arkansas Law Review since 1973. He was a member of the St. Marks Episcopal Church Vestry, the Jonesboro Chamber of Commerce, and the Arkansas IOLTA.

Lawyers surveyed gave Judge Reasoner high marks for his legal skills. He was considered to be “very bright and capable” and is “very knowledgeable about the law.” Lawyers also praised Judge Reasoner’s judicial temperament, including comments such as; “He is a perfect gentleman.” “He is always very pleasant to appear before.” “He treats lawyers with courtesy.”

Plaintiff’s attorneys found Judge Reasoner to be conservative and “somewhat defendant-oriented” but fair. If a civil case is close, some plaintiff’s lawyers complained that Judge

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<sup>1</sup> Linda Satter, *Judges in a Stew on Federal Sentencing Guidelines Seen as too Rigid*, Arkansas Democrat Gazette, Sept. 1, 2003, 2003 WL 62519559 at 1.

<sup>2</sup> Sentencing Transcript at 9, *United States v. Kenneth Mitchell Johnson*, No. CR-97-106 (E.D.Ark. March 12,, 1999).

Reasoner “tilt[s] toward the defendants.” Criminal defense lawyers believed that Judge Reasoner “is fair towards both sides.” One anonymous lawyer noted that, “I used to think that he was really government oriented, but I’ve changed my opinion. He’s fair toward both sides.” On sentencing, lawyers found that Judge Reasoner sentenced in “the middle of the guidelines,” or at “the middle-to-low end” and did not usually depart. Judge Reasoner did depart downward in the case of Whitewater witness David Hale. He sentenced Hale below the Guideline minimum because lawyers from the Independent Counsel’s Office filed a substantial assistance motion and asked for leniency in consideration of Hale’s cooperation in the investigation of President Clinton and in six other cases.

In September 2002, Judge Reasoner took senior status due to health problems. He received a heart transplant in May 2004 and news reports first stated that he was doing well but he passed away in August 2004.<sup>3</sup>

### **Judge Reasoner on Sentencing Policy**

Judge Reasoner was outspoken critic about unnecessary restrictions on judicial sentencing discretion. At a 2003 sentencing hearing in a drug case, he reportedly “shook his head from the bench, looked out across his Little Rock courtroom and asked . . . ‘Why am I here?’”<sup>4</sup> Nevertheless, Judge Reasoner’s dissatisfaction with limits on his discretion should not be confused with an unwillingness to mete out tough sentences. In another 2003 case, he gave a notorious Little Rock gangster a mandatory life sentence in a drug and firearm case. The defendant has already been convicted of two gang-related murders in state court. Although the Guidelines did not require a life sentence, Judge Reasoner told the defendant, “I don’t think we should ever let you walk the streets again because I think you are a danger to society.”<sup>5</sup>

### **Kenneth Mitchell Johnson**

**Offense:** Conspiracy, Attempt to Distribute & Possession of Methamphetamine with Intent to Distribute.  
**Sentence:** 170 months.

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<sup>3</sup> Linda Satter, *Reasoner Gets Heart After More than a Year on Transplant List*, The Arkansas Democrat Gazette, May 18, 2004 at 9; *In Memoriam: Judge Stephen M. Reasoner of the Eastern District of Arkansas*, The Library Newsletter: Eighth Circuit Courts Library, July/August 2004, <http://www.ca8.uscourts.gov/library/julaug04.reasonermemorial.html> (copy on file with author).

<sup>4</sup> Linda Satter, *Judges in a Stew on Federal Sentencing Guidelines Seen as too Rigid*, Arkansas Democrat Gazette, Sept. 1, 2003, 2003 WL 62519559 at 1.

<sup>5</sup> Linda Satter, *LR Gang Leader Gets Life Sentence*, Arkansas Democrat Gazette, August 7, 2003, 2003 WL 57086762 at 1.

**Projected Release Date:** June 4, 2011.

For most of his adult life, Kenneth Johnson had been steadily employed as a truck driver in Arkansas. He had been married over twenty-five years and was raising three children with his wife,<sup>6</sup> and he had no criminal record whatsoever. However, like many truck drivers, he experimented with methamphetamine and amphetamine to stay awake while driving and he became addicted.<sup>7</sup>

In early 1996, as a result of his addiction, Kenneth became involved in transporting methamphetamine from California to Arkansas with a cast of co-defendants with nicknames such as Snake, Booger, and Scrap Iron.<sup>8</sup> According to the PSI, this group brought approximately 22 pounds of methamphetamine a month to their home state. Kenneth reportedly made several of these trips himself. Additional methamphetamine was transported to Arkansas via Federal Express packages.<sup>9</sup> When the ring was busted, search warrants were executed at Kenneth's father's home and revealed over \$100,000 in a safe, as well as a ledger of drug activity that belonged to Kenneth.

Kenneth admitted that although he was first became involved to fund his personal drug use, he eventually participated in this smuggling and distribution ring for profit. For sentencing purposes, his involvement ran from about January 1996 until his arrest in March 1997. Based on the relevant conduct rules, which encompass reasonably foreseeable quantities, the probation officer estimated that Kenneth could have been held accountable for 47.9 kilograms of methamphetamine. The prosecutor agreed to stipulate to just 34 kilograms because the larger quantity had no upward impact on his sentence. The probation officer also recommended a two-level enhancement for guns that Kenneth and co-defendants possessed during the offense. At sentencing, the prosecutor gave Kenneth a real break and chose not to contest the defense objection to that enhancement. This was a substantial benefit which lowered his minimum sentence by almost two years.<sup>10</sup> The

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<sup>6</sup> Kenneth was raised in an intact family with three siblings, but he reports that his father was an untreated alcoholic. Thus, although his father worked, the family subsisted mostly on his mother's income. Kenneth graduated from high school but was not a stellar student, although he was a good athlete and talented in music. His parents divorced when Kenneth was an adult.

<sup>7</sup> After his initial arrest, Kenneth was released. However, he continued to use drugs and was arrested again in February 1997 in possession of 9 grams of methamphetamine and he tested positive for drug use. He was again released to participate in outpatient substance abuse treatment but was detained in a county jail after the government subsequently filed a motion to revoke his bond.

<sup>8</sup> According to the PSI, Kenneth's nickname was Road Hog.

<sup>9</sup> Kenneth was arrested after a package containing 870 grams of methamphetamine addressed to him was intercepted by security at the Federal Express Station in Memphis. After Kenneth accepted the package in a controlled delivery, he consented to a search of his home where another 29 grams were found.

<sup>10</sup> The original sentencing range as computed in the PSI with the gun enhancement was 210-262 months.

government did object to Kenneth receiving the benefit of the safety-valve. The prosecutor argued that although Kenneth received no enhancement for being a leader or manager, his involvement in this conspiracy was too serious for him to be treated as a low-level offender and Judge Reasoner concurred.<sup>11</sup>

Under the Guidelines, therefore, Kenneth had a initial Offense Level of 38 based upon the quantity of meth attributed to him. He was given a three point reduction for his early plea and acceptance of responsibility. With no criminal record, the Guidelines at Offense Level 35 yielded a sentencing range of 168-210 months.

At the sentencing hearing, Judge Reasoner first noted that many of his family members and friends who had written letters made a request that he receive probation. The judge stated that he was concerned that they were not prepared for the kind of sentence the law required and the fact that probation was “absolutely legally impossible in this case.”<sup>12</sup> In fact, he noted at the hearing that if he even “attempted to depart downward, the Eight Circuit would reverse me before the briefs got down there.”<sup>13</sup> Judge Reasoner then said that he thought

it is a real shame that a person who apparently has been a good husband and father and productive member of society, and so late in his life, with absolutely no criminal record, even as a juvenile, got into such serious, serious, serious business as drug dealing on this level, with this volume. However, in view of the fact that he has led that exemplary life, I am going to sentence him toward the bottom of the sentencing range. Unfortunately for Mr. Johnson, and due to the guideline requirements, that’s still a rather stiff sentence.<sup>14</sup>

The judge then imposed a sentence of 170 months. Of his five co-defendants, Kenneth received the longest. While some received lesser sentences because they were involved in fewer transactions, at least one co-defendant, Jeffrey Myers, who was at least as culpable as Kenneth, was able to cooperate with the government in exchange for a substantial break on his sentence. Myers was initially sentenced to 295 months but pursuant to a post-sentencing motion by the government, his sentence was later reduced to 160 months. Kenneth’s other co-defendants received sentences of 124 months, 20 months, 12 months, and 4 months.

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<sup>11</sup> The government also argued that his use of drugs while on pre-trial release also disqualified him from the safety-valve, but the Court overruled that objection. Sent Tr. at 3-6.

<sup>12</sup> Sent. Tr. at 6.

<sup>13</sup> Sent. Tr. at 6.

<sup>14</sup> Sent. Tr. at 9-10.

Kenneth was forty-seven years-old when he was sentenced but he had already begun to have significant health problems unrelated to his addiction, even suffering a seizure while in custody.<sup>15</sup> His wife, parents, and children all continue to support him (although he youngest son reportedly was having some problems in school as a result of his father's arrest).

*Compiled from PSI, Sentencing Transcript, newspaper articles, PACER docket sheet.*

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<sup>15</sup> Sent. Tr. at 7. The seizure was apparently caused by a serious thyroid condition.