

Samuel G. Wilson
Western District of Virginia

. . . I find these . . . crack cocaine cases distressing. . . And the Sentencing Guidelines probably don't equalize things the way they were intended and I recognize that. Those are matters that are beyond the court's power to remedy. I find them distressing but beyond the court's power to remedy.¹

Appointed by: President George H.W. Bush, 1990.

Law School: Wake Forest University School of Law, J.D., *cum laude*, 1974.

Prior Government Experience: Assistant Commonwealth Attorney for the City of Roanoke, 1974-76; Assistant U.S. Attorney, W.D. Va., 1976; U.S. Magistrate, 1976-81.

Prior Legal Experience: Woods, Rogers & Hazelgrove, 1981-90.

Background and Reputation in the Legal Community

After graduating from Wake Forest Law School, Judge Wilson worked as a prosecutor, first for the City of Roanoke, and then as an Assistant U.S. Attorney in the Western District of Virginia. He was quickly appointed to be United States Magistrate for that District and served in that capacity for five years. In 1981, he entered private practice with a firm in Roanoke where he stayed until tapped by President George H.W. Bush for the federal bench in 1990.

Judge Wilson has been active in bar and bench work, serving on many bar committees involved in ethics, criminal law, and court administration issues. He has authored articles for treatises and bar publications on subjects ranging from white collar crime to civil practice and procedure

Lawyers surveyed report great regard for Judge Wilson's ability, including comments such as, "He's knowledgeable, careful and thorough. . ." Judge Wilson is known as pleasant and businesslike on the bench. "His demeanor is excellent. He is a wonderful judge." "He is businesslike and no-nonsense on the bench." "He runs the courtroom like a business."

While plaintiffs' attorneys say that Judge Wilson possesses a conservative outlook they concede that his rulings are fair and unbiased. "He is conservative but a man of high character. I didn't feel he was unfair. He is a very good jurist." In criminal matters Judge Wilson is regarded as fair and balanced. "He is a man of fairness and neutrality." On sentencing, opinions range from "a little hard on sentencing" to "not overly harsh" to "somewhere in the middle." One lawyer noted, "He will respond to a good sympathy argument. He is not a hanging judge."

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Sentencing Transcript at 81, *United States v. Anthony Williamson*, No. 94-00037-002-R (W.D.Va. April 21, 1995).

Anthony Dewaine Williamson

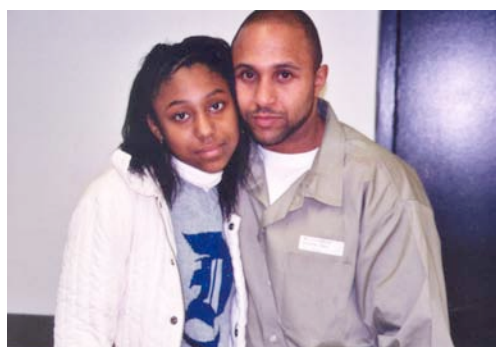
Charge: Conspiracy, Distribution, & Possession with Intent to Distribute Crack Cocaine; Carrying a Firearm in Relation to Drug Trafficking Offense; Possession of a Firearm with an Obliterated Serial Number.

Sentence: 151 months (drug counts) + 60 months (gun count) = 211 months.

Projected Release Date: November 16, 2009.

During the fall of 1993 and until his arrest in April 1994, Anthony Williamson was an active street-level crack dealer in Roanoke, Virginia. Anthony first came to the attention of the police through Shawn Muse, a drug dealer himself, who was working as an informant for the Roanoke Vice Bureau. On October 15, 1993, Muse, acting on behalf of the police, bought 5.3 grams of crack from Anthony at the direction of Todd Harrell at Harrell's residence.

No arrest followed, allowing Muse to earn the trust of Anthony and Harrell. Two weeks later, they paid Muse to drive with them to New York to purchase cocaine. Once there, Anthony contacted a friend and purchased 122 grams of powder cocaine with Harrell's money, which the government contends Harrell planned to cook into crack. Still, though, the police made no arrests. Then, on January 24, 1994, Roanoke vice officers saw Anthony driving with Emjadia Porter, who the officers knew had outstanding arrest warrants. They stopped the car and a search revealed 12 grams of crack in a pool cue case that Anthony claimed was his and two more small chunks in his underwear. Anthony was arrested and charged in Virginia state court and released on bond.



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Despite the pending charges, Anthony continued selling crack and the government continued to use Muse as an informant to set up deals. On April 5, 1994, after several telephone and pager contacts, Anthony agreed to sell Muse a small quantity of crack and a meeting place was arranged. Vice officers were waiting with warrants for Anthony. He was arrested and found to be in possession of another 14.6 grams of crack. An immediate search of the bedroom in his house yielded approximately 132 additional grams of the drug and a 9 mm pistol with an obliterated serial number.²

Soon thereafter, the investigation was concluded and Anthony, Porter, Harrell, and two others were indicted as coconspirators. The state charges from Anthony and Porter's earlier arrests were rolled into the federal case and those charges were dismissed.³ Anthony, Harrell,

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Almost \$4,000 dollars and a .22 pistol were also seized from his bedroom. An additional 32 grams of crack were found in the kitchen, along with digital scales. At the time, Anthony was living with David Grant, who was also arrested and charged as a coconspirator. Grant testified at trial that the kitchen items were his, but disavowed knowledge of the drugs and gun in Anthony's room. The probation officer who prepared the PSI did not hold Anthony responsible for Grant's drugs, although these additional amounts would probably not have increased his sentence.

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Porter, and a female co-defendant (who had a minor role) chose to go to trial and they were easily convicted based upon the drug seizures by the police and the testimony of Muse, Muse's brother, and Anthony's house mate, David Grant, who pled guilty in exchange for a lesser sentence.⁴

The probation officer who prepared the pre-sentence report took a conservative approach to estimating the drug quantities and the other Guideline factors for each defendant. Although the government presented evidence at trial that these defendants acted in concert, the probation officer felt that the relationship between Anthony, Porter, Harrell, and Grant was more a friendship among street level dealers than an organized conspiracy. Thus, he only attributed quantities of crack to Anthony with which Anthony had been directly involved or that were found on his person or in his room. In addition, no member of the conspiracy was assigned additional offense level points for being an organizer or leader.

Nevertheless, because the police kept the investigation going from October 1993 until April 1994, Anthony's drug quantity amounted to 264.8 grams of crack, far in excess of the 5 or 50 grams necessary to trigger the five and ten year mandatory minimums under the statute.⁵ Thus, even though he was a first time offender, the sentencing range for this quantity of crack was 151 to 188 months.⁶ The gun charge carried an additional 60 month consecutive sentence, leading to a 211 month minimum sentence.

At sentencing, Anthony's attorney argued that it was simply unfair that Anthony faced such a long sentence when there was ample evidence that the informant, Muse (and his brother), had continued their own drug dealings "throughout the course of this prosecution with apparent immunity" and that they had "probably moved more cocaine during the pendency of this case than the [amount] attributable to Mr. Williamson."⁷

Judge Wilson responded in part by telling the attorney that "It's a dirty business and when you get in there you get involved with some dirty people including people that come in and testify about you in court", and that "nobody forces people to sell crack cocaine or get in the crack cocaine business."⁸

On the other hand, Judge Wilson said that he found

A few days after Anthony's arrest, Emjadia Porter allegedly threatened Muse for being a "snitch." The police quickly arrested Porter for this threat and found a gun in his home.

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Grant pled guilty to drug charges, but the government dismissed the counts carrying a ten year mandatory minimum. Instead, he received a 90 month sentence. Anthony's primary co-defendants who went to trial with him also received long sentences; Porter, 262 months and Harrell, 240 months.

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The 122 grams of powder transported from New York was counted as crack for sentencing purposes because of Harrell's stated intention to cook it into crack.

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He was denied acceptance of responsibility because, while he admitted possession of the crack found on his person each time he was arrested and in the car, he denied that the trip to New York had occurred and that the drugs and guns in his bedroom were his.

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Sent. Tr. at 80-81.

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Sent. Tr. at 81.

these cocaine cases, these crack cocaine cases, distressing. I find them distressing. I find them disturbing and I find ramifications of homes, what has happened to families, what is happening to communities is a horrible thing and it is a bad thing and without cocaine and hard drugs a lot of the young men coming in here[,] perhaps men like [Anthony,] might be having a job somewhere and might be supporting a family and living productive lives. . . .9

The judge also acknowledged that the Guidelines often failed to remedy disparities between co-defendants and cooperating witnesses, stating “the sentencing guidelines probably don’t equalize things the way they were intended and I recognize that,” but he added that “Those are matters that are beyond the court’s power to remedy. I find them distressing but beyond the court’s power to remedy.”¹⁰ Because Anthony went to trial and intended to pursue an appeal, he chose to remain silent at the sentencing. He is not scheduled to be released until he is thirty six years old.

The PSI indicates that Anthony was born and raised in New York City. Although his parents divorced when he was young, his mother and stepfather gave him a stable childhood. Anthony attended public schools but dropped out of high school in the 11th grade. He briefly held a legitimate job in New York but departed for Roanoke in the fall of 1993, at the age of twenty, where he became involved in drug activity.

He writes from prison that he still thinks it was unfair that the Muse brothers essentially received immunity from arrest while they were being used to set up him and his friends on federal charges. It particularly galls him that the Muses already had serious criminal records for offenses ranging from weapons offenses, to burglary while armed, assault and battery, as well as multiple arrests for crack cocaine possession and distribution, while he was just a twenty year old, first-time offender. He writes

These guys can testify to anything they want with no evidence and putting people away while they use the system. Well I guess a lot of things is not fair.¹¹

He also notes that he was willing to plead guilty if the government would drop the consecutive gun count but that the prosecutor was only willing to consider this if he cooperated. As a matter of principle, Anthony says that he “does not believe in cooperating to save myself or anyone else. I did the crime, I will face the punishment.”¹²

Anthony writes that his daughter was two years old when he was incarcerated and will be sixteen or seventeen when he is released. He recognizes that he will have missed “the best

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Sent. Tr. at 81.

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Sent. Tr. 81-82.

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Undated letter to the author at 2 (on file with author).

12

August 26, 2006 letter to author at 1 (on file with author).

times of a child's life," and that it will be difficult "to gain her confidence as a father when I've been out of her life for 15 years."¹³

Anthony believes that five years would have been a sufficient sentence, writing that "after five years of incarceration . . . I realize[d] some of the ignorant paths I chose to take in my life."¹⁴ Nevertheless, he has tried to make his time in prison productive. He has obtained his G.E.D., apprenticed as a baker, taken vocational training, been certified in pest control, as well as taken over twenty-five different courses offered by the prison.

Compiled from PSI, Sentencing Transcript (excerpts), inmate letters, Pacer docket sheet.

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Id.

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Id. at 2.