

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
MISCELLANEOUS NO. 3:09mc116**

ORDER

**IN RE: HONORABLE ROBERT J. CONRAD, JR. PRESIDING JUDGE
NOTICE OF POTENTIAL VARIANCE IN CRACK COCAINE CASES**

THIS MATTER is before the Court on its own motion regarding its obligation to give the parties reasonable notice of potential variances from the United States Sentencing Guidelines in cases involving crack cocaine. Fed. R. Crim. P. 32(h); United States v. Blatstein, 482 F.3d 725, 732 (4th Cir. 2007).

In Spears v. United States, 129 S. Ct. 840, 843-4 (2009), the Supreme Court clarified that district courts have the authority to vary from the 100:1 crack-to-powder ratio reflected in the Guidelines based on categorical policy disagreements or individualized determinations in particular cases.¹ While this Court has not found a certain ratio to be appropriate as a matter of policy, this Order is intended to notify all parties in cases involving crack cocaine that the Court will consider arguments in support of varying from the 100:1 ratio to reach a sufficient, but not greater than necessary, sentence pursuant to 18 U.S.C. § 3553(a).

The Clerk is directed to certify copies of this Order to the Community Defender, the United States Attorney, and the United States Probation Office, and to post it on the District's Internet homepage.

Signed: July 6, 2009



Robert J. Conrad, Jr.
Chief United States District Judge



¹ The Supreme Court noted, “the District Court’s choice of replacement ratio was based upon two well-reasoned decisions by other courts, which themselves reflected the Sentencing Commission’s expert judgment that a 20:1 ratio would be appropriate in a mine-run case.” Spears, 129 S. Ct. at 844.