

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 92-10369-RWZ

UNITED STATES OF AMERICA

v.

ALFRED W. TRENKLER

ORDER

October 30, 2008

ZOBEL, D.J.

On August 1, 2008, the Court of Appeals for the First Circuit vacated the amended judgment and sentence entered by this court on July 24, 2007, and ordered the district court to “proceed forthwith to reinstate the original sentence.” (Docket # 717.) Although the First Circuit entered judgment on August 1st, the Mandate of the Court of Appeals was not filed until October 7, 2008. (See Docket # 718.) Defendant Alfred Trenkler (“Trenkler”) has moved for a hearing on remand, contending that he has a right to be present at the imposition of sentence. (Docket # 720.)

The First Circuit, however, did not order this court to re-sentence Trenkler; rather, it ordered that his original sentence be reinstated. Where a defendant had the opportunity to be present and to speak at the original sentencing hearing and a sentence identical to the one originally imposed is reinstated, a hearing is not required. See United States v. De Los Santos-Himitola, 924 F.2d 380, 383 (1st Cir. 1991); see also Hooker v. United States, 1992 U.S. App. LEXIS 28629, at \*7-8 (1st Cir. Apr. 1,

1992) (unpublished opinion); United States v. Santos-Rios, 151 Fed. Appx. 2, 4 (1st Cir. 2005) (unpublished opinion).

Accordingly, defendant's motion for a hearing (Docket # 720) is DENIED.

Defendant's motion for leave to file a reply brief (Docket # 723) is ALLOWED.

It is further ordered that the court's March 10, 1994, judgment (Docket # 552) that imposed concurrent terms of life imprisonment on Counts 2 and 3, and a term of 60 months on Count 1, concurrently with Counts 2 and 3, be and hereby is REINSTATED.

October 30, 2008

DATE

/s/Rya W. Zobel

RYA W. ZOBEL

UNITED STATES DISTRICT JUDGE