

Tuesday, December 11, 2007

**On December 10, a trio of Supreme Court sentencing opinions.**

Bill of Rights. (From the public domain.) After issuing a trickle of opinions through last week, the United States Supreme Court opened the faucet full blast to issue a trio of sentencing decisions on December 10, with two of them setting a major direction in sentencing guidelines jurisprudence, and with the third revisiting the meaning of using a firearm in relation to a drug trafficking crime. The cases, respectively, are *Kimbrough v. U.S.*, *Gall v. U.S.*, and *Watson v. U.S.* At the essence of *Kimbrough* and *Gall* is the great deference to be given to sentencing judges in deviating from the Sentencing Guidelines, which can benefit defendants when the deviation goes below the bottom of the Guidelines, but which can harm them when the Guidelines are exceeded. Certainly, this pair of cases does not detract at sentencing from mandatory minimum sentences that treat cocaine base (often called crack) as harshly as powder cocaine weighing one hundred times the weight of the cocaine base. *Watson* holds as follows: "Given ordinary meaning and the conventions of English, we hold that a person does not 'use' a firearm under §924(c)(1)(A) when he receives it in trade for drugs." Douglas Berman at Sentencing Law and Policy gives a rundown here of this trio of Supreme Court opinions, as well as his take on the sentences of Michael Vick and Conrad Black, and Scooter Libby's withdrawal of his appeal. Jon Katz.

Posted by Jon Katz in Criminal Defense at 00:00