

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

ORDER

v.

99-CR-103-C

THOMAS CROUSE,

Defendant.

A hearing on the revocation of Thomas Crouse's supervised release was held in this case on May 18, 2005, before United States District Judge Barbara B. Crabb. The government appeared by Assistant United States Attorney Rita Rumbelow. Defendant was present in person and by counsel, Amber Lucsay. Also present was United States Probation Officer Paul G. Billmeyer.

From the parties' stipulation at the hearing, I make the following findings of fact.

FACTS

Defendant was sentenced in the Western District of Wisconsin on November 29, 2000, following his conviction for possessing a firearm after having been convicted of a crime

of domestic violence, in violation of 18 U.S.C. § 922(g)(9), a Class C felony. He was committed to the custody of the Bureau of Prisons to serve a term of imprisonment of 37 months, with a three-year term of supervised release to follow.

As a mandatory condition of supervised release, defendant was prohibited from committing another federal, state or local crime. As a special condition, defendant was required to abstain from the use of alcohol.

Defendant began his term of supervised release on February 13, 2003. Defendant stipulates that on December 19, 2004, he was arrested in Rusk County and charged with operating under influence (2nd) and operating with a blood alcohol count of .08 or more. On April 6, 2005, defendant was sentenced to ten days in jail; his driver's license was revoked for 12 months; and he was ordered to pay a fine of \$876 for his second conviction of operating while under the influence.

Defendant's arrest and conviction demonstrate his violation of special condition #4 requiring him to abstain from the use of alcohol and the mandatory condition prohibiting him from committing another crime. His conduct falls into the category of Grade C violations, as defined by § 7B1.1(a)(3) of the sentencing guidelines policy statement for violations of supervised release. In addressing such violations, the court has the discretion to revoke supervised release, extend it or modify the conditions of release.

CONCLUSIONS

Defendant has a history of alcohol abuse and acts of violence committed while under the influence of alcohol. At the time of his sentencing, defendant had a criminal history category of VI. While on supervision defendant has abused alcohol once again and has been convicted of driving while under the influence. To his credit, he has maintained full-time employment, remarried, had a child and maintained a stable residence. It is imperative that defendant abstain totally from using alcohol if he is to continue to maintain the stability he has achieved. The only way to insure that he does abstain is to continue him on supervised release. Accordingly, the three-year term of supervised release imposed on defendant on November 29, 2000, will be revoked.

Defendant's original criminal history category was VI. A Grade C violation and a criminal history category of VI result in a guideline range of 8 to 14 months. The statutory maximum to which defendant can be sentenced upon revocation is 24 months, pursuant to 18 U.S.C. 3583(e)(3), which provides that a person whose term of supervised release is revoked may not be required to serve more than two years if the offense for which he was sentenced previously was a Class C felony.

I have selected a sentence well below the guideline range in order to take into account the progress defendant has demonstrated. This sentence is to be followed by a 30-month term of supervised release for the purpose of deterring defendant from any future violations,

to encourage him to maintain abstinence from alcohol and to encourage him to continue attending his after care groups.

_____ORDER

IT IS ORDERED that the period of supervised release imposed on defendant on November 19, 2000, is REVOKED and defendant is committed to the custody of the Bureau of Prisons for a term of one day, with credit for time served for this hearing. A 30-month period of supervised release shall follow. All conditions previously imposed will remain in effect.

Entered this 18th day of May 2005.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge