

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

DOUGLAS P. DYSON,

Defendant.

ORDER

00-cr-24-bbc-l

A hearing on the probation office's petition for judicial review of Douglas P. Dyson's supervised release was held on April 29, 2013, before United States District Judge Barbara B. Crabb. The government appeared by Assistant United States Attorney Laura A. Przybylinski Finn. Defendant was present in person and by Supervisory Associate Federal Defender Michael W. Lieberman. Also present was Senior United States Probation Officer Michael D. Harper.

From the record and defendant's stipulation, I make the following findings of fact.

FACTS

Defendant was sentenced in the Western District of Wisconsin on August 2, 2000, following his conviction for conspiracy to manufacture methamphetamine in violation of

21 U.S.C. §§ 841(a)(1) and 846. This offense is a Class A felony. Defendant was committed to the custody of the Bureau of Prisons to serve a term of imprisonment of 120 months, with a five-year term of supervised release to follow. On September 12, 2001, defendant's sentence was amended and he was committed to the custody of the Bureau of Prisons to serve a term of imprisonment of 84 months, with a four-year term of supervised release to follow.

Defendant began his initial term of supervised release on December 9, 2005. On June 16, 2009, his supervised release was revoked following his conviction for aggravated driving while under the influence of alcohol and driving while revoked in Stephenson County, Illinois, Circuit Court Case No. 08CF284. He was sentenced to time served with a 12-month term of supervised release to follow.

Defendant began his second term of supervised release on June 16, 2009. From September through December 2009, he violated the statutory condition prohibiting him from committing another federal, state or local crime when he sexually abused victim EVJ. On August 26, 2010, he was sentenced in Barron County Circuit Court (Case No. 2010CF000104) to ten years' imprisonment followed by eight years' extended supervision. He had pleaded guilty to charges of 2nd degree sexual assault in a treatment facility, in violation of Wis. Stat. § 940.225(2)(g), a Class C felony.

Defendant violated Special Condition No. 3 which requires him to abstain from the

use of alcohol, as evidenced by his February 13, 2010, positive tests for alcohol on the Sobriety in-home breath test machine.

Defendant's conduct falls into the category of a Grade A violation. Section 7B1.3(a)(1) of the advisory guidelines provides that the court shall revoke supervised release upon a finding of a Grade A violation.

CONCLUSIONS

Defendant's violations warrant revocation. Accordingly, the 12-month term of supervised release imposed on defendant on June 16, 2009, will be revoked.

Defendant's criminal history category is V. With a Grade A violation, he has an advisory guideline range of imprisonment of 46 to 57 months. Under 18 U.S.C. § 3583(e)(3), the statutory maximum to which defendant can be sentenced upon revocation is five years because this offense is a Class A felony.

After reviewing the non-binding policy statements of Chapter 7 of the Sentencing Guidelines, I have selected a sentence within the guideline range. Although USSG 7B1.3(f) provides that any term of imprisonment imposed upon the revocation of probation or supervised release shall be ordered to be served consecutively to any sentence of imprisonment that the defendant is serving, defendant is serving a ten-year sentence on the new state conviction. I believe that a sentence of that length is adequate to serve the

purposes of holding defendant accountable for his actions and protecting the community.

ORDER

IT IS ORDERED that the period of supervised release imposed on defendant on June 16, 2009, is REVOKED and defendant is sentenced to a term of 46 months' imprisonment to run concurrently with his undischarged sentence imposed in the Circuit Court for Barron County, Wisconsin, Case No. 2010CF000104. No term of supervised release shall follow.

Execution of this sentence will begin immediately.

Entered this 29th day of April, 2013.

BY THE COURT:

/s/

Barbara B. Crabb

U.S. District Judge