

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

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UNITED STATES OF AMERICA,

Plaintiff,

ORDER

v.

01-CR-64-C-01

REGINALD T. COLE,

Defendant.  
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A hearing on the revocation of Reginald T. Cole's supervised release was held in this case on March 24, 2006, 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, Joanne M. Keane. Also present was Senior United States Probation Officer William T. Badger, Jr.

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 November 19, 2001, following his conviction for possession with intent to distribute cocaine base, a Schedule II controlled substance, a Class B felony, in violation of 21 U.S.C. § 841(a)(1). He was committed to the custody of the Bureau of Prisons to serve a term of imprisonment

of 78 months, with a six-year term of supervised release to follow.

Special condition #4 required defendant to abstain from the use of illegal drugs; and special condition #6 required defendant to complete a 90-day public law placement at Rock Valley Community Programs for drug treatment.

Defendant began his term of supervised release on January 25, 2006. Defendant has admitted to using cocaine. Defendant signed a Probation Form 49 Waiver of Court Hearing, and agreed to modify his conditions to include drug treatment at Rock Valley Community Programs. On March 6, 2006, defendant provided a urine sample to Rock Valley that tested positive for cocaine, and on March 7, 2006, defendant admitted he used cocaine while at Rock Valley. Defendant was then terminated from Rock Valley Community Programs on March 10, 2006.

Because defendant possessed cocaine, as evidenced by his positive urinalysis, and has four prior drug convictions in Hennepin County, Minnesota, defendant's conduct falls into the category of Grade B violations, as defined by § 7B1.1(a)(2) of the sentencing guidelines policy statement for violations of supervised release. Upon a finding of a Grade B violation, the court shall revoke supervised release.

### CONCLUSIONS

Defendant's violations require revocation. Defendant's drug dependence requires drug treatment in a structured environment in the prison system to protect the community and to provide the most effective assistance to defendant in gaining control over his drug dependency.

Defendant's original criminal history category was VI. A Grade B violation and a criminal history category VI, results in a guideline range of 21 to 27 months. The statutory maximum term of imprisonment to which defendant can be sentenced upon revocation is 3 years, 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 three years if the offense for which he was sentenced previously was a Class B felony.

After review the non-binding policy statements in Chapter 7 of the Sentencing Guidelines, I have selected a sentence at the top of the guideline range. This sentence is necessary to hold defendant accountable for his behavior, protect the community and provide the greatest opportunity for defendant to take advantage of drug treatment.

#### ORDER

IT IS ORDERED that the period of supervised release imposed on defendant on November 19, 2001, is REVOKED and defendant is committed to the custody of the Bureau of Prisons for a term of 27 months. A three-year term of supervised release shall follow. The Court recommends the defendant be afforded the opportunity to participate and complete the 500-hour drug treatment program in the Bureau of Prisons.

All conditions previously ordered shall remain in effect. The special condition for drug testing will be modified as follows:

Defendant is to abstain from the use of illegal drugs and from association with drug users and sellers and participate in substance abuse treatment. Defendant shall submit to drug testing beginning within 15 days of release and 60 drug tests annually thereafter. The probation office may utilize the Administrative Office of the U.S. Courts' phased collection process.

In addition, defendant is required to follow special condition #6, which requires him to reside for not less than 90 days nor more than 120 days in a federally approved community sanctions center. Defendant is responsible for his own medical care. Defendant is allowed passes in accordance with the rules and regulations of the facility. Defendant will contribute 25 percent of his gross income toward subsistence. Defendant may be released from the facility after 90 days with the approval of the program director and the supervising probation officer.

Defendant does not have the financial means or earning capacity to pay the cost of incarceration. Execution of this sentence begins immediately.

Entered this 24th day of March, 2006.

BY THE COURT:

/s/

BARBARA B. CRABB

Chief District Judge