

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

UNITED STATES OF AMERICA,

Plaintiff,

ORDER

v.

01-CR-55-C-01

LOUIS B. MITCHELL,

Defendant.

A hearing on the revocation of Louis Mitchell's supervised release was held in this case on September 22, 2003, before United States District Judge Barbara B. Crabb. The government appeared by Assistant United States Attorney Peter Jarosz. Defendant was present in person and by counsel, Michelle Tjader. Also present was United States Probation Officer Michael D. Harper.

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

FINDINGS OF FACT

Defendant was sentenced in the Northern District of Iowa on March 2, 1994, following his conviction for conspiracy to possess with intent to distribute cocaine and

cocaine base, in violation of 21 U.S.C. §§ 841(a)(1) and 846. This crime is a Class C felony. Defendant was committed to the custody of the Bureau of Prisons to serve a term of imprisonment of 102 months, with a 36-month term of supervised release to follow. Defendant was further ordered to pay a fine in the amount of \$2,000.

As standard conditions of supervised release, defendant was required to abstain from illegal drug use and to notify the probation officer within 72 hours of any change in residence or employment. Defendant began his term of supervised release on April 23, 2001. Jurisdiction was transferred from the Northern District of Iowa to the Western District of Wisconsin on May 10, 2001.

On September 21, 2001, I modified the defendant's supervised release after he traveled out of district without permission. I required defendant to participate in home confinement with electronic monitoring for 180 days.

Defendant has stipulated that he violated standard conditions #6 and #7 of his supervised release requiring him to abstain from illegal drug use and to notify the probation officer within 72 hours of any change in residence or employment. On May 5, 2003, defendant provided a urine specimen that tested positive for the use of cocaine. In addition, he left his residence in Madison without notifying his probation officer that he was moving to a new location. Defendant was arrested in Milwaukee, Wisconsin, on August 15, 2003.

Defendant's conduct falls into the category of Grade C violations, as defined by §

7B1.1(a)(3)(B) 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's violations do not require revocation. The positive steps he has taken toward becoming a law abiding and productive citizen are good reasons to give him another opportunity to remain in the community. Accordingly, I will not revoke the three-year term of supervised release imposed on March 2, 1994.

After reviewing the non-binding policy statements in Chapter 7 of the sentencing guidelines, I have decided that a modification of defendant's supervised release will insure that he remains in compliance with his conditions, seeks and maintains employment, pays his remaining fine in full and saves sufficient funds to find an appropriate residence. Modifying defendant's supervised release to include a special condition requiring him to reside in a community corrections center for five months will be sufficient to protect the community and to motivate defendant to comply with the conditions of his supervised release in the future.

ORDER

IT IS ORDERED that defendant's term of supervised release is modified by adding the following special condition:

Special Condition #11--"Supervisee is to reside at the Rock Valley Community Corrections Center for five months as soon as the center has a vacancy. Defendant is to provide for his own medical treatment and is to pay 25% of his gross earnings as subsistence unless the Bureau of Prisons waives this requirement."

All other conditions of the original sentence imposed on March 2, 1994, remain in effect. Defendant is to be released from custody until a bed is available at the Rock Valley Community Corrections Center.

Entered this 22d day of September 2003.

BY THE COURT:

BARBARA B. CRABB

District Judge