

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

ORDER

PATRICIA MELCHOR,

02-CR-047-S-04

Defendant.

Petition for revocation of defendant's supervised release came on to be heard before the Court in the above entitled matter on March 27, 2007, the government having appeared by Erik C. Peterson, United States Attorney for the Western District of Wisconsin, by Daniel J. Graber, Assistant United States Attorney; the defendant in person and by Christopher Duren. Honorable John C. Shabaz, District Judge, presided.

From the record and stipulation, the Court makes the following findings of fact.

Defendant was sentenced in the United States District Court for the Western District of Wisconsin on November 8, 2002 following her conviction for bank fraud, in violation of 18 U.S.C. § 1344, a Class B felony. Defendant was committed to the custody of the Bureau of Prisons to serve a six-month term of imprisonment. A 60-month term of supervised release was ordered to follow imprisonment. She was also ordered to pay restitution of \$11,392.71.

As standard conditions of supervised release, defendant was ordered not to use any controlled substance.

Defendant began her term of supervised release on March 7, 2003. On June 6, 2003 defendant completed a three-month community corrections center placement at Arc's Mother and Infant program in Madison, Wisconsin.

On March 10, 2005 the Court revoked defendant's term of supervised release because of her chronic use of cocaine specifically, positive drug tests for cocaine use on October 15, 2003 and December 31, 2003 and December 17, 2003. She also tested positive for Oxycontin for which she did not have a prescription on December 31, 2004 and January 13 and 23, 2005. Defendant was ordered to serve a 12-month term of imprisonment with a four-year term of supervised release ordered to follow the term of imprisonment.

Defendant commenced the second term of supervised release on March 23, 2006. As a condition of supervised release she completed a 90-day placement at Arc Community Services, Madison, Wisconsin. A standard condition of supervised release again ordered defendant to abstain from use of any controlled substances.

Defendant has stipulated to violating Standard Condition No. 7 by testing positive for using opiates on June 22, 2006; testing positive for cocaine use on December 4, 2006; and testing positive for Benzodiazepines on March 13, 2007. Also, she has stipulated to violating Special Condition No. 2 by failing to report for a random drug test on December 12, 2006. Further, she stipulated to violating General Condition No. 3 by not paying her \$25 monthly payment toward her court-ordered restitution. Lastly, she violated

Standard Condition No. 2 by failing to report her 2006 income tax return on her January 2007 written monthly report. She further violated this condition by not disclosing her gambling winnings of \$500 from Ho-Chunk Casino on her February 2007 monthly report. Her 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.

This is defendant's second time on supervision. She was previously revoked for using controlled substances and is now before the Court for new drug use. Since her release to the term of supervised release, defendant has been involved in out-patient substance abuse treatment. Despite receiving treatment, she continues to live the life of an addict regardless of the sanctions she might receive. Defendant's use of Benzodiazepines without a prescription not only jeopardized the welfare of defendant but her minor children as well.

The seriousness of these violations committed by defendant requires revocation. Accordingly, the four-year term of supervised release imposed on defendant on March 10, 2005 will be revoked.

Defendant's original Criminal History Category was I. Grade C violations and a Criminal History Category I result in a guideline range of 3 to 9 months. Defendant's original conviction is a Class B felony. Because the Court has already revoked the first term of

supervised release and sentenced defendant to serve a 12-month term of imprisonment, the statutory maximum term of imprisonment that can be imposed should the term of supervised release be revoked is two years pursuant to 18 U.S.C. § 3583(e)(3) and (h). The Court will sentence defendant to the statutory maximum term of imprisonment of 24-months. This sentence will hold defendant accountable for these violations, provide specific and general deterrence and provide defendant the opportunity to receive needed substance abuse treatment.

ORDER

IT IS ORDERED that the period of supervised release imposed on defendant is REVOKED and defendant is committed to the custody of the Bureau of Prisons for a term of 24-months. No term of supervised release shall follow. The Court recommends that defendant be afforded the opportunity to apply for substance abuse education and treatment programs while confined where an early release is not provided.

Defendant does not have the financial means or earning capacity to pay the cost of incarceration and supervision.

The term of imprisonment is to commence immediately.

Entered this 27th day of March, 2006.

BY THE COURT:

s/

JOHN C. SHABAZ
District Judge