

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

-----  
UNITED STATES OF AMERICA,

Plaintiff,

v.

SHAUN PETERSON,

Defendant.

-----

ORDER

03-CR-120-C-01

A hearing on the revocation of Shaun Peterson's supervised release was held in this case on August 9, 2005, before United States District Judge Barbara B. Crabb. The government appeared by Assistant United States Attorney Beth Altman. Defendant was present in person and by counsel, Heather Harris.

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

FACTS

Defendant was sentenced in the Western District of Oklahoma on June 26, 2003, following his conviction for possession of marijuana in violation of 50 C.F.R. § 27.82, a Class B misdemeanor; and exceeding hours in violation of 50 C.F.R. § 26.22, a Class B

misdemeanor. He was sentenced to a term of 24 months of probation on each count with the terms to run concurrently. Under count 1, he was ordered to pay a fine of \$1,395 and a special assessment of \$5. Under count 2, he was ordered to pay a fine of \$95 and a special assessment of \$5.

As a mandatory condition of probation, defendant was prohibited from committing another federal, state or local crime. As a standard condition, defendant was prohibited from possessing illegal controlled substances.

Defendant began his term of probation on June 26, 2003. On September 4, 2003, jurisdiction of his case was transferred to the Western District of Wisconsin. On March 3 and 23, 2004, defendant tested positive for cocaine metabolite. At that time, defendant was attending counseling sessions at Wood County Unified Services in Wisconsin Rapids. Defendant agreed to more intensive outpatient treatment as well as continuous drug testing via a sweat patch.

On September 9, 2004, a criminal complaint was filed in Wood County Circuit Court charging defendant with delivery of cocaine on May 6, 2004. The criminal complaint alleges that on May 6, 2004, defendant sold 3.5 grams of powder cocaine to a confidential informant working for the Wisconsin Rapids police department. On November 22, 2004, defendant appeared in Wood County Circuit Court and pleaded guilty to one count of delivery of cocaine in violation of Wisconsin Statute § 961.16(2)(b)1, a Class F felony.

Defendant was allowed to participate in the new drug court program. His prosecution and sentencing were deferred pending completion of the program.

Defendant has stipulated that he violated the mandatory condition prohibiting him from committing another federal, state or local crime and standard condition #7 prohibiting him from possessing illegal controlled substances. Defendant was convicted originally of a Class B misdemeanor to which the sentencing guidelines do not apply. Defendant possessed a controlled substance. In that situation, according to 18 U.S.C. § 3565(b)(1), the court must revoke the sentence of probation and resentence the defendant under subchapter A to a sentence that includes a term of imprisonment. The statutory maximum period of imprisonment for a Class B misdemeanor is six months pursuant to 18 U.S.C. § 3581(b)(7).

### CONCLUSIONS

Defendant has a history of sporadic substance abuse and continued illegal conduct while on probation. However, he has maintained gainful employment, successfully attended technical college, become engaged to be married and purchased a small home in Wisconsin Rapids. In addition, he has successfully completed more than half of his drug court supervision in Wood County.

ORDER

IT IS ORDERED that the period of probation imposed on defendant on June 26, 2003, is REVOKED and defendant is committed to the custody of the U.S. Marshals Service for a term of one day with credit for time served. Defendant is to report to the U.S. Marshals Service after this hearing. While in the custody of the marshal, defendant shall be processed for this custodial sentence.

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

Entered this 9th day of August 2005.

BY THE COURT:

/s/

BARBARA B. CRABB  
Chief District Judge