

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

UNITED STATES OF AMERICA,

Plaintiff,

ORDER

v.

05-CR-25-C-01

ANTHONY W. LEWIS,

Defendant.

A hearing on the revocation of Anthony W. Lewis's supervised release was held in this case on May 15, 2008, before United States District Judge Barbara B. Crabb. The government appeared by Assistant United States Attorney Grant C. Johnson. Defendant was present in person and by counsel, Michael Lieberman. Also present was United States Senior Probation Officer William T. Badger, Jr. From defendant's stipulation, I make the following findings of fact.

FACTS

Defendant was sentenced in the Western District of Wisconsin on June 8, 2005, following his conviction for uttering a counterfeited security with intent to deceive in violation of 18 U.S.C. § 513(a). This offense is a Class C felony. He was committed to the custody of the Bureau of Prisons to serve a term of imprisonment of 36 months with a three-year term of supervised release to follow.

Defendant began his term of supervised release on December 6, 2007, in the Southern District of Indiana.

Defendant violated the mandatory condition of his supervised release, directing him to refrain from any unlawful use of a controlled substance; Special Condition No. 4, requiring him to abstain from the use of illegal drugs; and Standard Condition No. 7, prohibiting him from the purchase, possession, use, distribution or administration of any narcotic or other controlled substance. On March 6, 2008, defendant submitted a urine specimen that tested positive for cocaine. He failed to report for urinalyses as directed on February 28, March 11, March 16, March 20, and March 24, 2008.

Defendant violated Special Condition No. 5, requiring him to participate in mental health counseling as directed, when he failed to report for a scheduled mental health counseling appointment on March 24, 2008.

Defendant violated Standard Condition No. 6, directing him to notify the probation officer at least ten days before any change in residence, when he moved out of his mother's residence on March 25, 2008 and failed to notify the U.S. Probation Office of his change of residence. His whereabouts were unknown until April 3, 2008, when he was arrested on a warrant issued by the Western District of Wisconsin.

Defendant's conduct falls into the category of Grade C violations. Upon finding a Grade C violation, I have the discretion to revoke supervised release, extend the term of supervised release or modify the conditions of release, as defined by §7B1.3(a)(2) of the sentencing guidelines policy statement for violations of supervised release.

CONCLUSIONS

Defendant's violations warrant revocation. Accordingly, the three-year term of supervised release imposed on defendant on June 8, 2005, will be revoked.

Defendant's criminal history category is VI. A Grade C violation coupled with a criminal history category of VI results in a guideline term of imprisonment of 8 to 14 months. The statutory maximum to which defendant can be sentenced upon revocation is 24 months, 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 two years if the offense for which a defendant was sentenced previously was a Class C felony. Title 18 U.S.C. § 3583(h) authorizes another term of supervised release.

After reviewing the non-binding policy statements of Chapter 7 of the Sentencing Guidelines, I have selected a sentence in the middle of the advisory guideline range. The intent of this sentence is to deter defendant from future criminal acts and to provide an appropriate punishment for his violations of supervision, as well as provide him much needed supervision upon his release from prison.

ORDER

IT IS ORDERED that the period of supervised release imposed on defendant on June 8, 2005, is REVOKED and defendant is committed to the custody of the Bureau of Prisons for a term of ten months. A three-year term of supervised release shall follow. All standard and special conditions of supervised release previously imposed shall remain in

effect. Further, it is ordered that the following special condition be added to defendant's supervised release:

Defendant shall reside at a federally approved residential reentry center for a period of up to 180 days. Defendant may be absent from the center for employment purposes and for passes consistent with program rules. Defendant is to pay 25 percent of his gross pay for his daily cost of his residency as well as pay all medical expenses. Early discharge from the facility is contingent upon the approval of both the facility administrator and the supervising U.S. probation officer.

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

Entered this 15th day of May 2008.

BY THE COURT:

/s/

BARBARA B. CRABB
Chief District Judge