

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

UNITED STATES OF AMERICA,

Plaintiff,

ORDER

v.

05-cr-32-bbc-1

TERRANCE CARR,

Defendant.

A hearing on the probation office's petition for judicial review of Terrance Carr's supervised release was held on November 17, 2016, before U.S. District Judge Barbara B. Crabb. The government appeared by Assistant U.S. Attorney Elizabeth Altman. Defendant was present in person and by counsel Kim M. Zion. Also present was Senior U.S. Probation Officer Michael Nolan.

From the record I make the following findings of fact.

FACTS

Defendant was sentenced in the Western District of Wisconsin on August 4, 2005, following his conviction for possession with intent to distribute cocaine, a Schedule II controlled substance, in violation of 21 U.S.C. § 841(a)(1). This offense is a Class C felony. Defendant was committed to the custody of the Bureau of Prisons to serve a term

of imprisonment of 140 months, with a three-year term of supervised release to follow. He began his term of supervised release on May 23, 2014.

On July 14, 2014, a summons was issued for defendant after he violated Special Condition No. 4, requiring him to participate in substance abuse testing as directed. He failed to report for drug testing on June 12, 25 and 27, 2014 and on July 7, 2014. He also violated Standard Condition No. 9, prohibiting him from associating with any persons engaged in criminal activity or any person convicted of a felony. On July 10, 2014, he was involved in a traffic stop and found to have a convicted felon in the vehicle.

On September 15, 2014, a supplemental report was filed informing the court of additional violations committed by defendant. He violated Special Condition No. 4, prohibiting him from the use of alcohol and illegal drugs and requiring him to report for substance abuse testing when he failed to report for drug testing on July 23 and September 12, 2014.

On October 3, 2014, a Petition for a Warrant was submitted to the court after defendant violated Special Condition No. 4, requiring him to participate in substance abuse treatment and testing. He failed to report for substance abuse counseling on September 20, 2014 and failed to report for drug testing on September 22, 2014, as instructed. In addition, he violated Standard Condition No. 6, requiring him to notify the probation officer at least ten days before making any change in residence. On September 25, 2014, defendant's probation officer found that defendant had moved from

his reported residence four days earlier. The officer made numerous, unsuccessful attempts to reach defendant by telephone. Defendant failed to inform his probation officer of his change in residence and his whereabouts were unknown. On October 1, 2014, defendant's employer reported that defendant had stopped showing up for work in late July 2014. Defendant failed to report this employment change to his probation officer.

Defendant's conduct falls into the category of Grade C violations under U.S.S.G. § 7B1.1(a)(3). In addressing Grade C violations, the court may revoke supervised release, extend the term of supervised release or modify the conditions of supervised release

CONCLUSIONS

Defendant's criminal history category is VI. With a Grade C violation, his advisory guideline range of imprisonment is 8 to 14 months. Under 18 U.S.C. § 3583(e)(3), the statutory maximum to which he can be sentenced upon revocation is two years, because the offense of conviction is a Class C felony. 18 U.S.C. § 3583(h) authorizes another term of supervised release to follow imprisonment.

After reviewing the non-binding policy statements of Chapter 7 of the Guidelines Manual, I am persuaded that a sentence at the top of the advisory sentencing guideline range is reasonable and no greater than necessary to achieve the statutory purposes of sentencing upon revocation: holding defendant accountable for his violations and

protecting the community.

ORDER

IT IS ORDERED that the period of supervised release imposed on defendant August 4, 2005, is REVOKED and defendant is committed to the custody of the Bureau of Prisons for a term of 14 months. No term of supervised release is to follow the term of imprisonment because defendant's absconding from supervision demonstrates that he is not amenable to supervised release. Finally, defendant does not have the financial means or earning capacity to pay the cost of incarceration.

Entered this 17th day of November, 2016.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge