

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

UNITED STATES OF AMERICA,

Plaintiff,

ORDER

v.

99-CR-75-C-01

DWIGHT A. WILLIAMS,

Defendant.

A hearing on the revocation of Dwight A. Williams' supervised release was held in this case on May 12, 2006, before United States District Judge Barbara B. Crabb. The government appeared by Assistant United States Attorney David Reinhard. Defendant was present in person and by counsel, Reed Cornia. Also present was Senior United States Probation Officer William T. Badger, Jr.

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

FACTS

Defendant was sentenced in the Western District of Wisconsin on December 10, 1999, following his conviction for possession with intent to distribute cocaine base, in violation of 21 U.S.C. § 841(a)(1), a Class B felony. Defendant was committed to the custody of the Bureau of Prisons to serve a term of imprisonment of 60 months, with a five-

year term of supervised release to follow.

Defendant began his five-year term of supervised release on January 7, 2004. Special condition #4 of his supervised release required him to abstain from the use of alcohol and illegal drugs. Standard condition #3 of supervised release directs defendant to follow the instructions of the probation officer.

Defendant has stipulated to violating special condition #4 by testing positive for cocaine on March 5, 2006, and on April 18, 2006. Additionally, on May 2, 2006, defendant admitted to his probation officer that he had used cocaine. Further, defendant stipulates that he violated standard condition #3 by not following the instructions of the probation officer when he failed to meet with his supervising probation officer on May 2, 2006, as directed.

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. Upon a finding of a Grade C violation, the court may revoke supervised release or extend the term or modify the conditions of supervision, §7B1.3(a)(2) .

CONCLUSIONS

Defendant's violations require revocation. Defendant has had the benefit of three separate substance abuse programs while in the community. He continued to use illegal drugs while in treatment. He is in need of drug treatment in a structured environment. Accordingly, the five-year term of supervised release imposed on defendant on December 10, 1999, will be revoked.

Defendant's original criminal history category was I. A Grade C violation and a Criminal History Category I result in a guideline range of 3 to 9 months. The statutory maximum to which defendant can be sentenced upon revocation of supervised release is 36 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 three years if the offense for which he was sentenced previously was a Class B felony.

After reviewing the non-binding policy statements in Chapter 7 of the sentencing guidelines, I have selected a sentence above the guideline range in order to afford defendant an opportunity to participate in the 500-hour treatment program provided by the Bureau of Prisons. This sentence is necessary to provide intensive substance abuse treatment in a confined setting, to hold defendant accountable for his behavior and to protect the community.

ORDER

IT IS ORDERED that the period of supervised release imposed on defendant on December 10, 1999, is REVOKED and defendant is committed to the custody of the Bureau of Prisons for 12 months. A two-year term of supervised release shall follow the term of imprisonment. All special conditions of supervision previously imposed shall remain in effect.

Special condition # 4 will be modified as follows: "Abstain from the use of alcohol and illegal drugs and from association with drug users and sellers and participate in substance abuse treatment. Defendant shall submit to drug testing beginning within 15 days

of release and 60 drug tests annually thereafter. The probation office may utilize the Administrative Office of the U.S. Courts' phased collection process."

The addition of special condition #5 will require defendant "to reside for not less than 90 days nor more than 120 days in a federally approved community sanctions center, specifically, Rock Valley Community Programs, Janesville, Wisconsin. Defendant is responsible for the cost of his own medical care. Defendant is allowed work release privileges and passes in accordance with the rules and regulations of the facility. Defendant will contribute 25 percent of his gross income toward subsistence. Defendant may be released from the facility after 90 days with the approval of both the program director and the supervising probation officer."

I recommend that defendant be afforded an opportunity to complete the 500-hour drug treatment program offered by the Bureau of Prisons.

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

Entered this 12th day of May, 2006.

BY THE COURT:

/s/

BARBARA B. CRABB

Chief District Judge