

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

UNITED STATES OF AMERICA,

Plaintiff,

ORDER

v.

99-CR-103-C

THOMAS CROUSE,

Defendant.

A hearing on the revocation of Thomas Crouse's supervised release was held in this case on November 17, 2005, before United States District Judge Barbara B. Crabb. The government appeared by Assistant United States Attorney Rita Rumbelow. Defendant was present in person and by counsel, Amber Lucsay.

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

FACTS

Defendant was sentenced in the Western District of Wisconsin on November 29, 2000, following his conviction for possessing a firearm after having been convicted of a crime of domestic violence, in violation of 18 U.S.C. § 922(g)(9). This crime is considered a Class

C felony. He was committed to the custody of the Bureau of Prisons to serve a term of imprisonment of 37 months, with a three-year term of supervised release to follow.

As a mandatory condition of supervised release, defendant was prohibited from committing another federal, state or local crime. As a special condition, defendant was required to abstain from the use of alcohol.

Defendant began his term of supervised release on February 13, 2003. On May 18, 2005, I revoked his supervised release in response to defendant's conviction on April 6, 2005, for a second offense of operating under the influence and operating with a blood alcohol count of .08 or more. Defendant was sentenced to a term of imprisonment of one day with a 30-month term of supervised release to follow

On August 26, 2005, I modified defendant's supervised release in response to defendant's use of alcohol and a report that he had hit his wife and I ordered him to reside in the Rusk County jail for 180 days with work release privileges. Before this modification could be put into effect, defendant violated his supervised release again.

Defendant has stipulated that on October 29, 2005, he consumed alcohol and was arrested by the Rusk County sheriff's office. On November 1, 2005, defendant was charged in Rusk County with misdemeanor offenses of battery, disorderly conduct and resisting or obstructing an officer. The police report notes that defendant was involved in a domestic dispute during which he threw his wife to the ground.

Defendant has violated special condition #4 requiring him to abstain from the use of alcohol. His conduct falls into the category of a Grade C violation, as defined by § 7B1.1(a)(3) 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.

CONCLUSIONS

Defendant's original conviction was for possessing a firearm after having been convicted of a crime of violence. Defendant's pattern of alcohol abuse and domestic violence continues even though he has been involved in treatment repeatedly. To his credit, he works hard and does his best to support his family. But until defendant realizes that he cannot consume alcohol, he will present a risk to the community. Accordingly, the 30-month term of supervised release imposed on defendant on May 18, 2005, will be revoked.

Defendant's original criminal history category was VI. With a Grade C violation and a criminal history category of VI, defendant has a guideline range of 8 to 14 months. The statutory maximum to which he can be sentenced upon revocation is 24 months, less one day for the previous revocation, 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 he was sentenced previously was a Class C felony.

I have selected a sentence at the top of the guideline range in order to impose a sentence that will deter defendant from future acts of violence and encourage him to address his lengthy history of alcohol abuse and obtain mental health counseling.

ORDER

IT IS ORDERED that the period of supervised release imposed on defendant on May 18, 2005, is REVOKED and defendant is committed to the custody of the Bureau of Prisons for 14 months. No term of supervised release shall follow. Further, it is recommended that defendant be afforded the opportunity to participate in the Bureau of Prisons' 500-hour drug treatment program and in mental health counseling and treatment.

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

Entered this 17th day of November 2005.

BY THE COURT:

/s/

BARBARA B. CRABB

Chief District Judge