

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

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UNITED STATES OF AMERICA,

Plaintiff,

ORDER

v.

99-CR-107-C-01

JOHN F. LOVAAS,

Defendant.  
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A hearing on the revocation of John F. Lovaas's supervised release was held in this case on June 22, 2006, before United States District Judge Barbara B. Crabb. The government appeared by Assistant United States Attorney Paul Connell. Defendant was present in person and by counsel, Erika Bierma. Also present was Sr. 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 March 22, 2000, following his convictions for interstate shipment by computer of a visual depiction of minors engaged in sexually explicit conduct, in violation of 18 U.S.C. § 2252(a)(1), which is classified as a Class C felony; and possession of visual depictions that had been shipped in

interstate commerce of minors engaged in sexually explicit conduct, in violation of 18 U.S.C. § 2252(a)(4)(B), which is classified as a Class D felony. Defendant was committed to the custody of the Bureau of Prisons to serve a term of imprisonment of 87 months, as to count 2, and 60 months imprisonment as to count 3, with the terms to run concurrently and to be followed by concurrent three-year terms of supervised release. Special condition #8 of defendant's supervised release requires him to "participate in an outpatient mental health counseling program specifically designed to treat sex offenders."

Defendant began his term of supervised release on February 8, 2006. On April on April 17, 2006, he was terminated from counseling for sex offender group treatment for his failure to respond to other group members' feedback, apparent insincerity, apparent lack of remorse and merely going through the motions of group participation. Defendant's lack of participation in group interfered with the treatment of other group members.

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 (A) revoke supervised release or probation; or (B) extend the term of supervised release or probation or modify the conditions of supervision, §7B1.3(a)(2).

## CONCLUSIONS

Defendant's violations require revocation. He has failed to fully cooperate in sex offender group treatment, thus failing to comply with the conditions set forth by this court

and failing to take advantage of the opportunity afforded him.

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 term of imprisonment to which defendant can be sentenced upon revocation of supervised release is two years, 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 defendant was sentenced previously was a Class C felony.

After reviewing the non-binding policy statements of Chapter 7 of the sentencing guidelines, I have selected a sentence at the bottom of the advisory guideline range. This sentence is necessary to hold defendant accountable for his lack of cooperation, deter others from similar conduct, protect the community and impress upon defendant the seriousness of complying with his court-ordered conditions.

#### ORDER

IT IS ORDERED that both terms of supervised release imposed on defendant are REVOKED and defendant is committed to the custody of the Bureau of Prisons for three months, with two concurrent terms of supervised release of two years to follow. All special conditions of supervision previously imposed upon defendant shall remain in effect.

It is the court's expectation that upon defendant's release from imprisonment, he will resume sex offender group treatment.

Defendant does not have the financial means or earning capacity to pay the cost of incarceration. Execution of this sentence will be stayed three weeks to allow defendant to get his personal affairs in order. He will report to the designated Bureau of Prisons facility between the hours of 12 noon and 3:00 pm on July 13, 2006.

Entered this 22nd day of June, 2006.

BY THE COURT:

/s/

BARBARA B. CRABB  
District Judge