

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

UNITED STATES OF AMERICA,

Plaintiff,

ORDER

v.

99-CR-07-C-01

CORIN J. CRAMER,

Defendant.

A hearing on the revocation of Corin J. Cramer's supervised release was held in this case on September 10, 2004, before United States District Judge Barbara B. Crabb. The government appeared by Assistant United States Attorney Elizabeth Altman. Defendant was present in person and by counsel, Corey Chirafisi. Also present was Senior United States Probation Officer William T. Badger, Jr.

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 July 21, 1999, following his conviction for conspiracy to possess with intent to distribute cocaine, in violation of 21 U.S.C. § 846. This crime is a Class B felony. Defendant was committed to the custody of the Bureau of Prisons for a term of imprisonment of 70 months, with a five-

year term of supervised release to follow.

On August 16, 2000, on the government's Rule 35(b) motion, defendant was re-sentenced to 63 months' imprisonment with a five-year term of supervised release. As a mandatory condition of supervised release defendant was required not to commit another federal, state or local crime. Among other special conditions of supervised release, defendant was to abstain from the use of illegal drugs.

Defendant began his five-year term of supervised release on September 4, 2003. On June 30, 2004, he sold one ounce of cocaine for \$500 at the BP gas station at 4222 E. Washington Avenue in Madison, Wisconsin. On July 14, 2004, he sold one-half ounce of cocaine for \$600 at the Perkins Restaurant at 4853 Hayes Road in Madison, Wisconsin. On July 26, 2004, he sold one-half ounce of cocaine for \$600 at the PDQ gas station at 4402 Buckeye Road in Madison, Wisconsin. All three sales of cocaine by defendant were observed by agents of the Wisconsin Department of Justice, Division of Criminal Investigation. Defendant's conduct constitutes a felony offense of delivering cocaine in violation of Wisconsin law and it is in violation of the mandatory condition of his supervised release prohibiting him from committing another federal, state or local crime. Also, it is in violation of special condition #3 requiring him to abstain from the illegal use of drugs.

Defendant's conduct falls into the category of a Grade A violation as defined by § 7B1.1(a)(1) of the sentencing guidelines policy statement for violations of supervised release. Subsection 7B1.3(a)(1) of the sentencing guidelines states that upon a finding of Grade A violation, the court shall revoke supervised release.

CONCLUSION

Defendant's violations require revocation. Defendant did not take advantage of the treatment provided while in custody and on supervision. Accordingly, the five-year term of supervised release imposed on defendant on July 21, 1999, will be revoked.

Defendant's original criminal history category was III. A Grade A violation paired with criminal history category III produces a sentencing guideline range of imprisonment of 18 to 24 months. The statutory maximum term of imprisonment to which defendant can be sentenced upon revocation of supervised release is three 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 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. I will sentence defendant to the statutory maximum penalty. This sentence is necessary to hold defendant accountable for his behavior, protect the community and reflect the seriousness of defendant's non-compliance with his court-ordered conditions.

ORDER

IT IS ORDERED that the period of supervised release imposed on defendant on July 21, 1999, is REVOKED and defendant is committed to the custody of the Bureau of Prisons for a term of 36 months. No term of supervised release is to follow. Further, it is

recommended that defendant be afforded an opportunity to participate in the Bureau of Prisons' 500 hour drug treatment program while in custody.

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

This sentence is to begin immediately.

Entered this 10th day of September, 2004.

BY THE COURT:

BARBARA B. CRABB
Chief District Judge