

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

UNITED STATES OF AMERICA,

Plaintiff,

ORDER

v.

00-CR-16-C-01

JOSEPH L. REED,

Defendant.

A hearing on the revocation of Joseph L. Reed's supervised release was held in this case on May 3, 2006, before United States District Judge Barbara B. Crabb. The government appeared by Assistant United States Attorney Daniel Graber. Defendant was present in person and by counsel, Michael Lieberman. Also present was Senior United States Probation Officer William T. Badger, Jr.

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

FACTS

Defendant was sentenced in the Southern District of Illinois on April 24, 1997, by the Honorable J. Phillip Gilbert, following his conviction for conspiracy to distribute and

possession with intent to distribute cocaine base, in violation of 21 U.S.C. §§ 846 and 841(a)(1). Defendant was committed to the custody of the Bureau of Prisons to serve a term of imprisonment of 87 months, to be followed by a 60-month term of supervised release, and was ordered to pay a fine of \$500. On April 3, 1998, on the government's motion, defendant's sentence was reduced from 87 months to 48 months' imprisonment with a 60-month term of supervised release to follow.

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 ordered to abstain from the use of illegal drugs and to report to the probation officer when directed.

Defendant began his initial five-year term of supervised release on January 14, 2000. On February 21, 2000, jurisdiction was transferred from the Southern District of Illinois to the Western District of Wisconsin.

Defendant violated his first term of supervised release on or about September 4, 2003, by failing to respond to a note left by his probation officer. Defendant neither called nor reported as directed, thus absconding from supervision. On September 27, 2004, I revoked defendant's term of supervised release and sentenced him to ten months' imprisonment to be followed by a one-year term of supervised release. I recommended that defendant be afforded the opportunity to attend the Bureau of Prisons' 500-hour drug

treatment program while in custody. All special conditions previously imposed remained in effect with the addition of a special condition requiring defendant to reside in a community corrections center for 30 to 120 days immediately upon his release from custody. Defendant was allowed work release privileges and time to attend counseling.

Defendant began his second term of supervised release on June 24, 2005. On October 11, 2005, I added a fourth special condition requiring defendant to reside in a community corrections center, specifically, Rock Valley Community Programs, for up to 120 days to assist him in overcoming his addiction to marijuana.

Defendant is in violation of special condition #1 of his supervised release by failing to participate in drug treatment as directed and failing to respond to random urine sample requests from Rock Valley Community Programs. Also, defendant violated standard condition #6 of his supervised release by failing to notify the probation officer at least ten days prior to any change in residence. His whereabouts were unknown until his arrest at the U.S. Probation Office on March 30, 2006.

Defendant's conduct falls into the category of Grade C violations, as defined by § 7B1.1(a)(2) of the sentencing guidelines policy statement for violations of supervised release. Section 7B1.3(a)(1) of the sentencing guidelines states that upon a finding of a Grade C violation the court may revoke, extend or modify the term of supervised release.

CONCLUSIONS

Defendant's violations require revocation. Defendant absconded from supervision a second time and failed to take advantage of drug treatment and urine surveillance as required. Accordingly, the one-year term of supervised release imposed on defendant on September 27, 2004, will be revoked.

Defendant's original Criminal History Category was II. A Grade C violation paired with Criminal History Category II results in a guideline range of 4 to 10 months. The statutory maximum term of imprisonment to which defendant can be sentenced upon revocation of supervised release is five years, pursuant to 18 U.S.C. § 3583(e)(2), which provides that a person whose term of supervised release is revoked may not be required to serve more than five years if the offense for which he was sentenced previously was a Class A felony.

After reviewing the non-binding policy statements in Chapter 7 of the sentencing guidelines, I have selected a sentence at the top of the guideline range. This sentence is necessary to hold defendant accountable for his behavior. This sentence will protect the

community and impress upon the defendant the seriousness of non-compliance with his court-ordered conditions.

_____ORDER

IT IS ORDERED that the period of supervised release imposed on defendant Joseph Reed on September 27, 2004, is REVOKED and defendant is committed to the custody of the Bureau of Prisons for a term of 10 months. No term of supervised release will follow.

Defendant does not have the financial means or earning capacity to pay the cost of incarceration. This sentence is to begin immediately.

Entered this 3rd day of May, 2006.

BY THE COURT:

/s/

BARBARA B. CRABB
Chief District Judge