

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

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UNITED STATES OF AMERICA,

Plaintiff,

v.

JUSTIN M. FRANKLIN,

Defendant.

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ORDER  
00-CR-084-S-01

Petition for revocation of defendant's supervised release came on to be heard before the Court in the above entitled matter on May 25, the government having appeared by Stephen P. Sinnot, Acting United States Attorney for the Western District of Wisconsin, by Robert A. Anderson, Assistant United States Attorney; the defendant in person and by Keith Wessel. Honorable John C. Shabaz, District Judge, presided.

From the record and defendant's stipulations, the court makes the following findings of fact.

The defendant was sentenced in the United States District court for the Western District of Wisconsin on December 6, 2000 following his conviction for receipt of property obtained by fraudulent use of credit cards in violation of 18 U.S.C. § 1644(d), a Class C felony. The defendant was committed to the custody of the Bureau of Prisons to serve a term of imprisonment of ten months with a 36-month term of supervised release to follow. Further, the

defendant was ordered to pay restitution in the amount of \$13,008.88.

As a mandatory condition of supervised release, the defendant was ordered not to commit another federal, state or local crime. As a standard condition, the defendant was ordered to work regularly at a lawful occupation unless excused by the probation officer for schooling, training or other acceptable reason.

The defendant began his first term of supervised release on October 4, 2001.

On June 29, 2004 the defendant's term of supervised release was revoked in response to being charged with being party to a crime of retail theft, a Class A misdemeanor. The defendant was committed to the custody of the Bureau of Prisons for a term of three months to be followed by a two-year term of supervised release. A special condition was added to his supervised release requiring him to complete a 120-day placement at the Fahrman Center.

The defendant began his second term of supervised release on October 18, 2004.

The defendant has stipulated that he is in violation of standard condition #5, requiring him to work, when on December 8, 2004 he walked off his job at Pizza Hut during the lunch hour rush without cause knowing that it would result in his termination.

The defendant has also stipulated that he is in violation of special condition #6 because he did not complete his court-ordered 120-day placement at the Fahrman Center. On February 11, 2005 the defendant was discharged at the Fahrman Center staff's request because of his attitude, behavior and the fact that he met less than minimal requirements for successful completion of the program.

The 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 because the conduct committed by the defendant was a violation of his conditions of supervision. Upon a finding of a Grade C violation the court may revoke supervised release, extend the term of supervised release or modify the conditions of supervision pursuant to § 7B1.3(a)(2).

The defendant's violations require modification of his conditions of supervised release. The intent of this modification is to force the defendant to make the choice of either sitting in jail or finding gainful employment and paying his restitution.

#### ORDER

IT IS ORDERED that the term of supervised release imposed on the defendant on June 29, 2004 is modified as follows:

7) Defendant shall reside at the Chippewa County jail or that other similar facility as determined by the

probation office for nine months with work release privileges for up to ten hours per day, six days per week. The defendant may attend medical, mental health and financial planning appointments. All treatment and medical expenses are the defendant's financial responsibility. The defendant's release from the Chippewa County Jail may be considered after three months if the following two criteria are met: the defendant is working full-time and he has paid a minimum of \$2,000 toward his restitution balance or demonstrated to the Court's satisfaction a good faith effort. If either criteria are unmet, the defendant shall remain in jail until they are met or nine months has elapsed.

Entered this 25th day of May, 2005.

BY THE COURT:

/s/

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JOHN C. SHABAZ  
District Judge