

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 September 27, 2004, before United States District Judge Barbara B. Crabb. The government appeared by Assistant United States Attorney Robert Anderson. Defendant was present in person and by counsel, Dean Strang. 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, following his conviction of a class A felony, 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 for a term of imprisonment of 87 months, with a 60-month term of supervised release to follow and ordered to pay a fine of \$500. On April 3, 1998, the government moved for a reduction in defendant's sentence; the court granted the motion and reduced defendant's sentence to 48 months' imprisonment with a 60-month term of supervised release to follow.

As a mandatory condition of supervised release, defendant was ordered 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 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. On March 25, 2002, in response to a charge of domestic battery, I modified defendant's supervised release to require him to reside in a community corrections center for 120 days.

Defendant is in violation of standard condition #2 of his supervised release, which requires that he report to the probation officer as directed. Although defendant's probation officer left him a note on September 4, 2003, directing him to call and wrote him again two days later with the same direction, defendant neither called nor reported as directed. His

whereabouts were unknown until his arrest in August 2004.

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

CONCLUSIONS

I am persuaded that defendant's violation requires revocation. Defendant absconded from supervision and never turned himself in. Accordingly, the five-year term of supervised release imposed on defendant on April 24, 1997, 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 defendant 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 and to deter others from similar conduct. This sentence will further protect the community and impress upon defendant the seriousness of non-compliance with his court ordered conditions.

ORDER

IT IS ORDERED that the period of supervised release imposed on defendant on April 24, 1997, is REVOKED and defendant is committed to the custody of the Bureau of Prisons for a term of 10 months. A one-year term of supervised release is to follow. It is further 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 remain in effect. As a special condition of supervised release, defendant is to reside in a community corrections center for 30 to 120 days immediately upon his release from custody. Defendant is allowed work release privileges and time to attend counseling. Defendant is to participate in the residential treatment program and follow the rules and regulations of the corrections center. If defendant successfully completes the residential treatment program and complies with the rules of the center, he may be considered for an early discharge after 30 days upon the recommendation of the program director and the approval of the supervising probation officer. Defendant is required to provide for his own medical treatment and pay 25 percent of his adjusted gross monthly income for subsistence,

unless this requirement is waived by the Federal Bureau of Prisons.

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

Entered this 27th day of September, 2004.

BY THE COURT:

BARBARA B. CRABB

Chief District Judge