

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

UNITED STATES OF AMERICA,

Plaintiff,

ORDER

v.

00-CR-33-C-01

STEVEN J. RANTA,

Defendant.

A hearing on the revocation of Steven J. Ranta's supervised release was held in this case on October 2, 2003, before United States District Judge Barbara B. Crabb. The government appeared by Assistant United States Attorney Stephen Ehlke. Defendant was present in person and by counsel, David Karpe. Also present was United States Probation Officer Paul G. Billmeyer.

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 September 20, 2000, following his conviction for distribution of methamphetamine, in violation of 21

U.S.C. § 841(a)(1), a Class C felony. Defendant was committed to the custody of the Bureau of Prisons to serve a term of imprisonment of 57 months, with a 36-month term of supervised release to follow.

As a special condition of supervised release, defendant was ordered to abstain from the use of alcohol, from the use of illegal drugs and from association with drug users and sellers and participate in substance abuse treatment and testing as directed by the supervising probation officer. As a standard condition of supervised release, defendant was ordered to refrain from excessive use of alcohol and not purchase, possess, use, distribute or administer any narcotic or other controlled substance, or any paraphernalia related to such substances except as prescribed by a physician.

Defendant began his term of supervised release on April 4, 2003.

Defendant stipulates that he has violated special condition (#4) and standard condition (#7) of his supervised release which orders him not to use illegal drugs and to participate in substance abuse testing. A urine specimen collected from defendant on June 27, 2003, tested positive for the presence of amphetamine and methamphetamine. A urine specimen collected July 7, 2003, tested positive for the presence of cocaine. A urine specimen collected July 14, 2003, tested positive for the presence of amphetamine and methamphetamine. Since July 14, 2003, defendant has failed to report for a weekly urinalysis as directed by the supervising U.S. probation officer.

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. Section 7B1.3(a)(2) provides that 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. However, guideline § 7B1.4, Application Note 5, which restates 18 U.S.C. § 3583(g), requires mandatory revocation for possession of a controlled substance or for refusing to comply with drug testing. I am required to revoke the term of supervised release and sentence defendant to serve a term of imprisonment not to exceed the maximum term of imprisonment authorized by statute unless the availability of appropriate substance abuse treatment programs or defendant's current or past participation in such programs warrants an exception to the requirement of mandatory revocation.

CONCLUSIONS

Defendant's violations require revocation. In the six months that defendant has been on supervised release, he has had three positive urinalyses showing that he has possessed and used illegal drugs on three distinct occasions. The probation office attempted to arrange for defendant to enter inpatient drug abuse treatment at the Recovery Center, Superior, Wisconsin. Although defendant has completed two of the three required evaluation sessions, the counselor conducting the evaluation found his manner arrogant and reluctant to give

straight answers. Defendant's past and present participation in substance abuse treatment does not warrant an exception to mandatory revocation. Accordingly, the three-year term of supervised release imposed on defendant on September 20, 2000, will be revoked.

Defendant's original criminal history category was IV. A Grade C violation and a criminal history category of IV result in a guideline imprisonment range of 6-12 months. The statutory maximum term of imprisonment to which defendant can be sentenced upon revocation 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 he was sentenced previously was a Class C felony.

After reviewing the non-binding policy statements in Chapter 7, I have selected a sentence at the top of the guideline range. The intent of this sentence is to impress upon defendant the seriousness of his violations and his need to cooperate with drug testing and substance abuse counseling. This sentence will reflect the seriousness of defendant's violation of the conditions of his supervised release and provide protection for the community.

ORDER

IT IS ORDERED that the period of supervised release imposed on defendant on September 20, 2000, is REVOKED and defendant is committed to the custody of the Bureau of Prisons for a term of 12 months. A two-year term of supervised release shall follow. All standard and special conditions of supervised release previously imposed shall remain in effect, with the addition of the following special condition of supervised release:

Special Condition #6: Defendant shall reside for 120 days at a federally approved community corrections center, beginning immediately upon his release from imprisonment. Defendant will be allowed work release privileges. Defendant is to pay his own medical expenses, if any, and pay 25 percent of his gross income for the daily costs of his placement.

Defendant is to be registered with local law enforcement agencies and the state attorney general before his release from confinement.

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

Entered this 2d day of October, 2003.

BY THE COURT:

BARBARA B. CRABB

District Judge