

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

THOMAS E. TUMINSKAS II,

Defendant.

ORDER

02-CR-44-C-01

A hearing on the revocation of Thomas E. Tuminskas' conditional release was held in this case on October 21, 2005, before United States District Judge Barbara B. Crabb. The government appeared by Assistant United States Attorney Rita Rumbelow. Defendant was present in person and by counsel, Michele Tjader. Also present was Senior United States Probation Officer William T. Badger, Jr.

From the record, I make the following findings of fact.

FACTS

Defendant was arrested on March 22, 2002, and charged with being a felon in possession of a firearm and theft of a firearm. Shortly after his arrest, defendant was referred to the Federal Medical Center, Rochester, Minnesota, for a competency evaluation. He

remained at FMC-Rochester throughout all pretrial proceedings. On February 27, 2003, defendant was adjudged not guilty by reason of insanity. On April 1, 2003, defendant was discharged conditionally under a prescribed regimen of medical, psychiatric, and psychological care and treatment with special conditions, pursuant to 18 U.S.C. § 4243(f).

As a special condition of his release, defendant was ordered to comply with psychiatric treatment as directed by the treatment team with such treatment to include oral and injectable medications and the continuance of anti-psychotic drug treatment.

Defendant contested the violation, at which time evidence was heard.

After reviewing the testimony given by defendant's mother, Tina Tuminskas, and reviewing the report prepared by attending psychiatrist Linda DiRaimondo, I find that defendant has violated special condition #2 by refusing to take his medication during the week of September 29, 2005.

CONCLUSIONS

Defendant's violation requires revocation of his conditional release. On October 3, 2005, pursuant to 18 U.S.C. § 4243(g), defendant was returned to custody based on his refusal to take medication and for destroying property at his parents' residence. Defendant's failure to comply with the prescribed regimen of psychiatric treatment creates a substantial risk of bodily injury to another person or serious damage to property.

ORDER

IT IS ORDERED that the period of conditional release imposed on defendant on April 1, 2003, is REVOKED and defendant is remanded to the custody of the Bureau of Prisons at FMC-Rochester.

Pursuant to 18 U.S.C. § 4243(f), when the director of FMC-Rochester determines that defendant has recovered from his mental disease to such an extent that his release under a prescribed regimen of psychiatric care or treatment no longer creates a substantial risk of bodily injury to another person or serious damage to property of another, he shall promptly file a certificate to that effect with the Clerk of Court for the Western District of Wisconsin. The Clerk of Court shall send a copy of the certificate to defendant's counsel and to the attorney for the government. The government may file a motion requesting that a hearing be held, pursuant to 18 U.S.C. § 4247(d), to determine whether defendant should be released.

Entered this 25th day of October, 2005.

BY THE COURT:
/s/
BARBARA B. CRABB
Chief District Judge