

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

EDMOND WHITE,

Defendant.

ORDER

02-CR-047-S-02

Petition for revocation of defendant's supervised release came on to be heard before the Court in the above entitled matter on May 16, 2007, the government having appeared by Erik C. Peterson, United States Attorney for the Western District of Wisconsin, by Daniel J. Graber, Assistant United States Attorney; the defendant in person and by Anthony C. Delyea. Honorable John C. Shabaz, District Judge, presided.

From the record and defendant's stipulation the Court makes the following findings of fact.

Defendant was sentenced in the United States District Court for the Western District of Wisconsin on November 12, 2002 following his conviction for bank fraud in violation of 18 U.S.C. § 1344, a Class B felony. He was committed to the custody of the Bureau of Prisons to serve a term of imprisonment of 21 months with a 60-month term of supervised release to follow. He was ordered to pay restitution in the amount of \$69,092.77.

Defendant began his term of supervised release on December 5, 2003.

Defendant has stipulated that he violated Standard Condition No. 1 by leaving the Western District of Wisconsin on December 30, 2006 without permission; Standard Condition No. 6 by not reporting a change in his residence within 72 hours; Standard Condition No. 3 by failing to call the probation office as instructed; and Standard Condition No. 2 by failing to complete timely, truthful monthly reports for November 2006, December 2006, January 2007 and February 2007. He is now in default on his court-ordered restitution. His 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. In addressing such violations, the Court has the discretion to revoke supervised release, extend it or modify the conditions of release.

Defendant was diagnosed with bipolar disorder in February 2007 and was stabilized on medication within two weeks. However, in spite of his mental health condition, his violations require revocation. Accordingly, the five-year term of supervised release imposed on November 12, 2002 will be revoked.

Defendant's original criminal history category is III. A Grade C violation and a criminal history category of III result in an advisory guideline imprisonment range of 5 to 11 months. After taking all factors into consideration, the Court balances defendant's numerous violations against his mental health concerns and determines that a sentence near the middle of the advisory

guideline range is reasonable and necessary to provide for specific and general deterrence and hold defendant accountable for the serious violations he has committed. The Court declines to sentence defendant below the advisory guideline range as suggested by defendant, the advisory guidelines appearing to be reasonably sufficient.

ORDER

IT IS ORDERED that the period of supervised release imposed on defendant on November 12, 2002 is REVOKED and defendant is committed to the custody of the Bureau of Prisons for a term of seven months. Defendant is to be registered with local law enforcement agencies and the state attorney general before his release from confinement.

A 48-month period of supervised release shall follow the term of imprisonment.

All conditions of release previously imposed on November 12, 2002 are affirmed and the following special conditions are added: Special Condition No. 5 - Defendant is to reside at a federally contracted residential reentry center with work release privileges for a period of 90 days unless early discharge is recommended by the center director and approved by the supervising probation officer after a minimum of 60 days. He is to provide for his own medical expenses and will receive passes or furloughs pursuant to the practices and procedures of the reentry center. He will apply 25 percent of his adjusted gross earnings as subsistence or to

defray the cost of his daily per diem. Special Condition No. 6 - Defendant is to complete a thorough mental health evaluation and participate in any recommended treatment, including the taking of any medication prescribed by his treating physician, all at the direction of the supervising probation officer. The Court-ordered restitution of \$69,092.77 remains in effect.

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

Defendant is to report on June 6, 2007 between the hours of noon and 3:00 p.m. to the institution to be designated by further court order. Where he is unable to do so he shall report at said date and time to the United States Marshal's office at 120 North Henry, Madison, WI. The present release conditions as aforesaid are continued until June 6, 2007. The Court recommends to the Bureau of Prisons that defendant's place of confinement be at Metropolitan Correctional Center (MCC) - Chicago so as to be within reasonable proximity to his family for the continued improvement of his mental health.

Entered this 17th day of May, 2007.

BY THE COURT:

s/

JOHN C. SHABAZ
District Judge