

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

LATONYA B. FOUNTAIN,

Defendant.

ORDER

02-CR-047-S-03

Petition for revocation of defendant's supervised release came on to be heard before the Court in the above entitled matter on May 10, 2007, the government having appeared by Erik C. Peterson, United States Attorney for the Western District of Wisconsin, by Daniel Graber, Assistant United States Attorney; the defendant in person and by Erika Bierma. Honorable John C. Shabaz, District Judge, presided.

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

Defendant was originally sentenced in the United States District Court for the Western District of Wisconsin on November 12, 2002 following her conviction for bank fraud, a Class B felony, in violation of 18 U.S.C. § 1344. She was committed to the custody of the Bureau of Prisons to serve a term of imprisonment of 13 months with a five-year term of supervised release to follow. Defendant began the initial term of supervised release on December 16, 2003. She violated the terms of release and on August 24,

2005 the term of supervised release was revoked. Defendant was ordered to serve a term of imprisonment of six months with a two-year term of supervised release to follow. She began her second term of supervised release on July 7, 2006.

Standard Condition No. 2 requires defendant to report to the probation officer as instructed and to submit complete and truthful monthly report forms by the first of the month. Special Condition No. 3 requires defendant to participate in drug testing.

Defendant has stipulated that she violated Standard Condition No. 2 when she failed to report for scheduled office contacts on February 9, March 19, March 26, March 27 and March 30, 2007 and failed to be present for a scheduled home contact on April 17, 2007. She further violated Standard Condition No. 2 when she failed to submit written monthly report forms for December 2006, January 2007 and February 2007. Defendant violated Special Condition No. 3 when she failed to be present for an April 17, 2007 scheduled home contact to remove a drug testing sweat patch.

Defendant's violations fall into the category of Grade C violations as defined by §7B1.3(a)(2) of the sentencing guidelines policy statement for violations of supervised release. Section 7B1.3(a)(1) provides that upon a finding of a Grade C violation, the Court may revoke supervised release, extend it or modify the conditions of release.

Defendant's violations require revocation. Accordingly, the two-year term of supervised release imposed on August 24, 2005 will be revoked.

Defendant's criminal history category is IV. A Grade C violation and a criminal history category of IV result in a guideline range of 6 to 12 months imprisonment.

After reviewing the non-binding policy statements in Chapter 7 of the sentencing guidelines, the Court balances defendant's criminal conduct and previous violations against her family concerns and determines that a sentence at the top of the guideline range is reasonable and necessary. This sentence will serve as a deterrent to defendant, promote respect for the law and protect the community from further criminal behavior by defendant.

ORDER

IT IS ORDERED that the period of supervised release imposed on defendant on August 24, 2005 is REVOKED and defendant is committed to the custody of the Bureau of Prisons for a term of 12 months. No term of supervised release shall follow the term of imprisonment.

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

The Court recommends that defendant's place of confinement be at a non-regional institution which the Bureau of Prisons standards will allow.

Entered this 10th day of May, 2007.

BY THE COURT:

s/
JOHN C. SHABAZ
District Judge