

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

UNITED STATES OF AMERICA,

Plaintiff,

ORDER

v.

02-cr-47-bbc-02

EDMOND WHITE,

Defendant.

A hearing on the revocation of Edmond White's supervised release was held in this case on April 22, 2008, before United States District Judge Barbara B. Crabb. The government appeared by Assistant United States Attorney Daniel J. Graber. Defendant was present in person and by counsel, Anthony Delyea. Also present was Senior United States Probation Officer Michael D. Harper.

From the record and stipulation I make the following findings of fact.

FACTS

Defendant was sentenced in the Western District of Wisconsin on November 12, 2002, following his conviction for bank fraud in violation of 18 U.S.C. § 1344. His crime

is a Class B felony. Defendant 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, and he was ordered to make restitution in the amount of \$69,092.77.

Defendant began his initial term of supervised release on December 5, 2003, in the Western District of Wisconsin. The Honorable Judge John C. Shabaz revoked the term of supervised release on May 16, 2007, after defendant left the Western District of Wisconsin without permission, failed to report a change in his residence as required and failed to complete timely, truthful monthly reports as required. Defendant was ordered to serve a seven-month term of imprisonment with a four-year term of supervised release to follow. The second term of supervised release began on November 7, 2007, in the Northern District of Illinois.

Defendant has stipulated that he violated Standard Condition No. 5 by failing to work at a lawful occupation since his supervised release term began on November 7, 2007, Standard Condition No. 4, by failing to pay the court-ordered child support, Special Condition No. 4, by failing to participate in mental health treatment, and a general condition by defaulting 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.

CONCLUSIONS

This is the second supervised release term for this defendant. He ignored his conditions and the directions of his supervising probation officer to find a job and support his dependents as required. By failing so early on his second term of supervised release, defendant has demonstrated that he is not amenable to changing his life and complying with his conditions of supervised release. Defendant's violations require revocation. Accordingly, the four-year term of supervised release imposed on defendant on May 16, 2007, will be revoked.

Defendant's original criminal history category was III. With a Grade C violation and a criminal history category of III, he has a guideline range of 5-11 months. The statutory maximum to which he can be sentenced upon revocation is 36 months, pursuant to 18 U.S.C. § 3583(e)(3) because defendant's original offense of conviction was a Class B felony. Because the defendant's first term of supervised release was revoked and he was sentenced to serve a seven-month term of imprisonment, the statutory maximum term of imprisonment becomes 29 months under 18 U.S.C. §3583(h).

I have selected a sentence above the guideline range because this is defendant's second term of supervised release. He refused to follow the directions of his supervising probation officer to secure employment to support himself and his dependents and to enable him to pay the court-ordered restitution. A 12-month term of imprisonment will be sufficient to

hold defendant accountable for these violations, protect the community and reflect the seriousness of violating supervised release conditions.

ORDER

IT IS ORDERED that the period of supervised release imposed on defendant is REVOKED and defendant is committed to the custody of the Bureau of Prisons for a term of 12 months. I recommend that defendant serve the last 30 days of his confinement in a federally approved community corrections center, with work release privileges. Defendant is to be registered with local law enforcement agencies and the state attorney general before his release from confinement. The previous order requiring defendant to make restitution of \$69,092.77 remains in effect. 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 term of imprisonment is to begin immediately.

Entered this 22d day of April 2008.

BY THE COURT:

/s/

BARBARA B. CRABB

Chief District Judge