

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

UNITED STATES OF AMERICA,

Plaintiff,

ORDER

v.

03-CR-131-C-01

ZACHARIAH L. SPITTEL,

Defendant.

A hearing on the revocation of Zachariah L. Spittel's supervised release was held in this case on January 31, 2007, before United States District Judge Barbara B. Crabb. The government appeared by Assistant United States Attorney Robert Anderson. Defendant was present in person and by counsel, Richard Coad. Also present was Senior United States Probation Officer William T. Badger, Jr.

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

FACTS

Defendant was sentenced in the Western District of Wisconsin on February 6, 2004, following his conviction for false statement, a Class D felony, in violation of 18 U.S.C. § 1001. He was committed to the custody of the Bureau of Prisons to serve a term of

imprisonment of 30 months, consecutive to his State of Wisconsin sentence, with a two-year term of supervised release to follow.

As a mandatory condition of supervised release, defendant was prohibited from committing another federal, state, or local crime.

On June 7, 2006, defendant began his term of supervised release. On January 22, 2007, defendant was arrested for the theft of Vicodin from a residence in Janesville, Wisconsin, and for resisting arrest/fleeing from a police officer.

Defendant has stipulated to violating his mandatory condition of supervised release by resisting arrest and fleeing from police officers. His conduct falls into the category of a Grade C violation, as defined by § 7B1.1(a)(3) 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 the term of supervised release or modify the conditions.

CONCLUSIONS

Defendant's violation warrants revocation. Accordingly, the two-year term of supervised release imposed on defendant on February 6, 2004, will be revoked.

Defendant's original criminal history category was VI. With a grade C violation and a criminal history category of VI, defendant's sentencing guideline range is 8 to 14 months.

The statutory maximum to which defendant can be sentenced upon revocation is 24 months, 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 D felony.

I have selected a sentence at the bottom of the guideline range. The purpose of this sentence is to hold defendant accountable for his new criminal behavior. A reentry center placement while on supervised release will afford defendant an opportunity to seek employment while he is reintegrated into the community.

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 six months. A one-year term of supervised release is to follow the term of imprisonment. All previously imposed special conditions of supervised release will be re-imposed upon release from imprisonment with the addition of Special Condition No. 5, which states that

defendant shall reside in a federally contracted residential reentry center, specifically, Rock Valley Community Programs, 203 W. Sunnyside Road, Janesville, WI 53546, for a period of up to 120 days. Defendant is allowed work release privileges. Defendant is to complete the residential treatment program and follow the rules and regulations of Rock Valley Community Programs. If defendant completes the residential program successfully and complies with the rules of the center, he may be considered for an early discharge after 90 days upon the approval of the center

director and the supervising probation officer. Defendant is required to provide for his own medical expenses and pay 25 percent of his adjusted gross income as subsistence unless the costs are waived by the program director of the residential reentry center and approved by the federal Bureau of Prisons. This public law placement is to begin upon release from imprisonment.

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

Entered this 31st day of January, 2007.

BY THE COURT:

/s/

BARBARA B. CRABB

Chief District Judge