

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

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UNITED STATES OF AMERICA,

Plaintiff,

v.

DAVID NELSON,

Defendant.

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ORDER

03-cr-175-bbc

In a letter dated September 25, 2013, defendant David Nelson asked the court to dismiss or modify the federal detainer lodged against him on April 18, 2013. I will construe the letter as a motion and will deny it.

Defendant was sentenced in this court on November 24, 2004, after he had been convicted of possessing materials to manufacture methamphetamine. His supervised release term began on December 30, 2011. In late November of the following year, he began delivering federally controlled substances and was arrested on January 7, 2013, by members of the West Central Drug Task Force. The probation office petitioned the court to issue a warrant for defendant, who appeared in this court on April 16, 2013 for hearing on the potential revocation of his supervised release. Revocation of release is mandatory under U.S.S.G. § 7B1.3(a); defendant's term was revoked and he was sentenced to a term of 24 months to run consecutively to the state sentence imposed on him in the Circuit Court for

Eau Claire County. To insure that defendant is turned over to federal authorities after his state sentence is served, a detainer was lodged against defendant.

Defendant argues that the existence of the detainer bars him from consideration for minimum security status at the state prison at which he is housed and affects other aspects of his confinement, such as the opportunity to participate in programs available to other prisoners. He does not suggest that the detainer is illegal in any respect or that there is any legal or constitutional reason why he should be relieved of the effects of that detainer.

Even if I believed that defendant should be relieved of the affects of his sentence, which I do not, there is no way I could bring about such a result. By law I have no authority to reduce or otherwise change defendant's sentence once it has been imposed, except under a few specific circumstances, none of which are present in this case, such as a motion by the government to recognize the defendant's substantial assistance in investigating or prosecuting another person. Fed. R. Crim. P. 35.

It is unfortunate that defendant will be denied some opportunities to participate in drug treatment programs while he remains in state custody, but he should have similar opportunities once he is taken into custody to begin service of his federal sentence.

## ORDER

IT IS ORDERED that defendant David Nelson's motion the dismiss or modify the

detainer lodged against him is DENIED.

Entered this 4th day of October, 2013.

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