

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSEPH W. ISHAM, JR.,

Defendant.

ORDER

03-cr-179-bbc

A hearing on the probation office's petition for judicial review of Joseph W. Isham, Jr.'s supervised release was held on September 16, 2008, before United States District Judge Barbara B. Crabb. The government appeared by Assistant United States Attorney Meredith P. Duchemin. Defendant was present in person and by counsel, Patrick J. Stangl. Also present was Senior United States Probation Officer William Badger and Michael Nolan.

From the record and defendant's stipulation, I make the following findings of fact.

FACTS

Defendant was sentenced in the Western District of Wisconsin on August 9, 2004, following his conviction for possession of stolen firearms in violation of 18 U.S.C. § 922(g)(1). This offense is a Class C felony. Defendant was committed to the custody of

the Bureau of Prisons to serve a term of imprisonment of 54 months, with a 36-month term of supervised release to follow.

Defendant began his term of supervised release on October 2, 2007. On June 22, 2008, he violated the statutory condition of release prohibiting him from committing another state crime when he obstructed a Washburn County, Wisconsin sheriff's deputy during an official investigation, ultimately resulting in his no contest plea to disorderly conduct (Circuit Court for Washburn County case no. 2008CM000146). He violated special condition No. 3 requiring him to abstain from the use of alcohol when he consumed alcohol on June 22, 2008.

Defendant's conduct falls into the category of a Grade C violation. Under § 7B1.3(a)(2) of the advisory guidelines, upon a finding of a Grade C violation, the court has discretion to revoke supervised release, extend it or modify the conditions of release.

CONCLUSIONS

Defendant's violations warrant revocation. Accordingly, the 36-month term of supervised release imposed on defendant on August 9, 2004, will be revoked.

Defendant's criminal history category is III. With a Grade C violation and a criminal history category of III, defendant has an advisory guideline range of imprisonment of 5 to 11 months. The statutory maximum to which defendant can be sentenced upon revocation

is 24 months, under 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 a defendant is sentenced previously was a Class C felony.

After reviewing the non-binding policy statements of Chapter 7 of the Sentencing Guidelines, I have selected a sentence at the bottom of the guideline range. The intent of this sentence is to hold defendant accountable for his violations and to protect the public from future criminal acts by defendant.

ORDER

IT IS ORDERED that the period of supervised release imposed on defendant on August 9, 2004, is REVOKED and defendant is committed to the custody of the Bureau of Prisons for a term of five months, with a 24-month term of supervised release to follow. All previous conditions of supervised release are reimposed and the following special condition is ordered:

Special Condition No. 4: Defendant shall participate for a period of 120 days in a home detention program that shall include electronic monitoring. Defendant may be responsible for the costs of the electronic monitoring.

Defendant is to be registered with local law enforcement agencies and the state attorney general before his release from confinement. Defendant does not have the financial

means or earning capacity to pay the cost of his incarceration. Execution of this sentence will begin immediately.

Entered this 17th day of September 2008.

BY THE COURT:

/s/

BARBARA B. CRABB

Chief District Judge