

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

UNITED STATES OF AMERICA,

Plaintiff,

ORDER

v.

04-CR-03-C-02

DUSTIN C. BASKIN,

Defendant.

A hearing on the revocation of Dustin C. Baskin's supervised release was held in this case on July 25, 2006, before United States District Judge Barbara B. Crabb. The government appeared by Assistant United States Attorney Robert A. Anderson. Defendant was present in person and by counsel, Michael Lieberman. Also present was United States Probation Officer Traci L. Jacobs.

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

FACTS

Defendant was sentenced in the Western District of Wisconsin on September 21, 2004, following his conviction for possession of equipment, chemicals and materials to

manufacture methamphetamine, in violation of 21 U.S.C. § 843(a)(6), which is a Class C felony. He was committed to the custody of the Bureau of Prisons to serve a term of imprisonment of 15 months, with a 36-month term of supervised release to follow.

Defendant began his term of supervised release on November 23, 2004. On November 22, 2004, I modified defendant's conditions of supervised release by adding special condition #6, directing defendant to reside at Rock Valley Community Programs in Janesville, Wisconsin, for a period of 120 days. This modification was in response to defendant's removal from the Fahrman Center for taking part in a sex act with a female resident. Also, I modified defendant's conditions of supervised release on January 12, 2005, by adding special condition #7, ordering defendant to reside at the Chippewa County jail for 180 days. This modification was in response to defendant's discharge from Rock Valley Community Programs for failure to complete the program.

Defendant stipulates that he violated special condition #4, directing him to abstain from the use of alcohol. On June 2, 2006, after being seen in a bar, defendant was questioned by an officer from the Hudson Police Department and admitted that he had been drinking alcohol. Defendant admitted to his U.S. probation officer that he had been drinking five days a week.

Defendant's 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 violation, I have the discretion to revoke supervised release, extend the term of supervised release or modify the conditions of release.

CONCLUSIONS

Defendant's violations warrant revocation. Defendant has been given the opportunity for two Residential Re-entry Center placements. He has tested positive for marijuana and consumed alcohol repeatedly. Accordingly, the three-year term of supervised release imposed on defendant on November 23, 2004, will be revoked.

Defendant's original criminal history category was I. A Grade C violation coupled with a criminal history category of I results in a guideline term of imprisonment of 3 to 9 months. The statutory maximum to which defendant can be sentenced upon revocation is two years, 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 C felony.

After reviewing the non-binding policy statements of Chapter 7 of the Sentencing Guidelines, I have selected a sentence at the midpoint of the guideline range. This sentence is intended to protect the community and provide defendant an alcohol-free and drug-free structured setting.

ORDER

IT IS ORDERED that the period of supervised release imposed on defendant Dustin Baskin on November 23, 2004, is REVOKED and defendant is committed to the custody of the Bureau of Prisons for a term of six months. A two-year term of supervised release shall follow the term of imprisonment. Defendant is to be registered with local law enforcement agencies and the state attorney general before his release from confinement.

All conditions of supervised release previously imposed shall remain in effect, excluding special condition #1, directing defendant to spend the first 120 days of supervised release at the Fahrman Center, special condition #6, requiring defendant to reside at Rock Valley Community Programs, and special condition #7 ordering defendant to spend 180 days at the Chippewa County jail.

Defendant does not have the financial means or earning capacity to pay the costs of

incarceration.

Entered this 25th day of July, 2006.

BY THE COURT:

/s/

BARBARA B. CRABB

Chief District Judge