

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

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UNITED STATES OF AMERICA,

Plaintiff,

v.

KHARI R. SANDERS,

Defendant.

ORDER

04-CR-54-C-01

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A hearing on the revocation of Khari R. Sanders's supervised release was held in this case on November 14, 2006, before United States District Judge Barbara B. Crabb. The government appeared by Assistant United States Attorney Rita M. Rumbelow. Defendant was present in person and by counsel, David Karpe. Also present was Senior United States Probation Officer Clark J. Rodgers.

From the parties' stipulation at the hearing, I make the following findings of fact.

FACTS

Defendant was sentenced in the Western District of Wisconsin on December 7, 2004, following his conviction for possession of a stolen firearm, in violation of 18 U.S.C.

§ 922(j), a Class C felony. He was committed to the custody of the Bureau of Prisons to serve a term of imprisonment of 24 months with a three-year term of supervised release to follow.

As a standard condition of supervised release, defendant was prohibited from using a controlled substance. The fourth special condition of supervised release required defendant to abstain from the use of alcohol.

Defendant began his term of supervised release on April 21, 2006. On October 12, 2006, a violation report was submitted after defendant admitted that he consumed alcohol on July 30 and October 7, 2006. He provided urine specimens on August 18 and October 7, 2006, that tested positive for marijuana. On October 13, 2006, I modified the conditions of defendant's supervised release to include a special condition requiring him to reside at the Rock Valley Community Program, Janesville, Wisconsin, for a period of not less than 60 days and not more than 120 days.

Defendant stipulates that he violated Special Condition No. 4, which requires him to abstain from the use of alcohol. After defendant had positive breath tests, he admitted to his probation officer that he consumed alcohol on October 14 and 28, 2006.

Defendant has violated Special Condition No. 4. His conduct falls into the category of Grade C violations, 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 it or modify the conditions of release.

## CONCLUSIONS

Defendant has a history of substance abuse and disorderly conduct. During the first four months of his term of supervised release he relapsed and began using alcohol and illegal drugs. Defendant was offered residential treatment at the Rock Valley Community Program; however, before placement could be effected his substance abuse and behavior became dangerous to himself and those near him. Accordingly, the three-year term of supervised release imposed on defendant on December 7, 2004, will be revoked.

Defendant's original criminal history category was I. A Grade C violation and a criminal history category of I result in a guideline range of 3 to 9 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 on any such revocation 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 above the guideline range. The intent of this sentence is to impress upon defendant the seriousness of his substance abuse problem, to ensure the safety of the women and children in his life and to afford him an opportunity to participate in the 500-hour residential substance abuse treatment program offered by the Bureau of

Prisons.

## ORDER

IT IS ORDERED that the period of supervised release imposed on defendant on December 7, 2004, is REVOKED and defendant is committed to the custody of the Bureau of Prisons for a term of 24 months. A 12-month term of supervised release shall follow the sentence of imprisonment. All previous conditions of supervised release are reimposed and the following special conditions are ordered:

No. 7: Defendant shall not frequent establishments whose primary business is the sale of alcoholic beverages.

No. 8: Defendant shall submit to drug and alcohol testing beginning within 15 days of release and 60 drug tests annually thereafter. The probation office may utilize the Administrative Office of the U.S. Courts' phased collection process.

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 incarceration. Execution of this sentence is to begin immediately.

Entered this 14th day of November 2006.

BY THE COURT:

/s/

BARBARA B. CRABB

Chief District Judge