

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

ALAN K. BURNS,

Defendant.

ORDER

04-CR-038-S-01

Petition for revocation of defendant's supervised release came on to be heard before the Court in the above entitled matter on October 2, 2007, the government having appeared by Erik C. Peterson, United States Attorney for the Western District of Wisconsin, by Paul Connell, Assistant United States Attorney; the defendant in person and by Michael Lieberman. Honorable John C. Shabaz, District Judge, presided.

From the record the Court makes the following findings of fact.

Defendant was sentenced on November 22, 1991 in the United States District Court for the Middle District of Florida following his conviction for Count 1: kidnaping in violation of 18 U.S.C. § 1201(c)(1), a Class A felony, and Count 2: use of a firearm during a crime of violence in violation of 18 U.S.C. § 924(c), a Class C felony. Defendant was sentenced to a total term of imprisonment of 177 months, consisting of 57 months on Count 1 and a consecutive 120-month sentence on Count 2. A five-year term of

supervised release was imposed and he was also ordered to pay restitution in the amount of \$22,356.24.

Defendant began his term of supervised release on January 30, 2004. Jurisdiction was transferred from the Middle District of Florida to the Western District of Wisconsin on July 26, 2004.

Defendant stipulates that he violated his mandatory condition of supervised release which prohibits him from committing another federal, state or local crime, as evidenced by his conviction on August 17, 2007 for 11 counts of 2nd degree sexual assault of a child in Richland County, Wisconsin Circuit Court Case No. 2005CF49.

Defendant's conduct falls into the category of Grade A violations as defined by §7B1.1(a)(1)(B) of the sentencing guidelines policy statement for violations of supervised release. Defendant's criminal history category is I. Grade A violations paired with a Criminal History Category I result in a sentencing guideline range of 24 to 30 months imprisonment. The statutory maximum sentence the Court could impose is 60 months imprisonment because the most serious original conviction was for a Class A felony. Pursuant to §7B1.3(a)(1) upon a finding of a Grade A violation, the Court shall revoke supervised release.

After reviewing the non-binding policy statements in Chapter 7 of the Sentencing Guidelines, the Court determines that the statutory maximum sentence is reasonable and necessary to protect the community.

ORDER

IT IS ORDERED that the period of supervised release imposed on defendant on November 22, 1991 is REVOKED and he is committed to the custody of the Bureau of Prisons for a term of imprisonment of 60 months. This sentence is ordered to be served consecutive to Richland County, Wisconsin Case No. 2005CF49. The order of restitution remains in effect.

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

Entered this 2nd day of October, 2007.

BY THE COURT:

/s/

JOHN C. SHABAZ
District Judge