

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

STEVEN TRAISTER,

Defendant.

ORDER
04-CR-136-S-01

Petition for revocation of defendant's supervised release came on to be heard before the Court in the above entitled matter on December 14, 2006, the government having appeared by Eric C. Peterson, United States Attorney for the Western District of Wisconsin, by Meredith P. Duchemin, Assistant United States Attorney; the defendant in person and by Michael Lieberman. Honorable John C. Shabaz, District Judge, presided.

From the record and stipulation by the defendant, the Court makes the following findings of fact.

Defendant was sentenced in the United States District Court for the Southern District of Iowa on April 16, 2001 following his conviction for possession of child pornography in violation of 18 U.S.C. § 2252(a)(4)(B), a Class D felony. He was placed on probation for a period of five years. That probation was revoked on October 29, 2003 and he was committed to the custody of the Bureau of Prisons to serve a term of imprisonment of nine months with a three-year term of supervised release to follow.

As a special condition of supervised release, defendant was ordered not to possess anything sexually explicit, including books, videos, magazines, cut-outs or pornography of any kind.

Defendant began his second term of supervised release on July 16, 2004. Jurisdiction was transferred to the United States District Court for the Western District of Wisconsin on August 18, 2004.

Defendant has stipulated that he violated the special condition of supervised release which directs him not to possess anything sexually explicit, including books, videos, magazines, cut-outs or pornography of any kind. On November 1, 2006 sexually explicit DVD's were found in plain view during an unscheduled home contact at defendant's residence.

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 violations, the Court has the discretion to revoke supervised release, extend the term of supervised release or modify the conditions of release.

Defendant's violation warrants revocation. Accordingly, the three-year term of supervised release imposed on the defendant on October 29, 2003 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 15 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 if the offense for which the defendant was sentenced previously was a Class D felony.

After reviewing the non-binding policy statements of Chapter 7 of the Sentencing Guidelines, the Court has selected a sentence above the guideline range of imprisonment. The intent of this sentence is to deter the defendant from future criminal acts and protect the community. Despite incremental punishments, defendant has not in the past been deterred from continued violations of his conditions of supervised release.

ORDER

IT IS ORDERED that the period of supervised release imposed on defendant is REVOKED and he is committed to the custody of the Bureau of Prisons for a term of 15 months. No term of supervised release shall follow. Defendant is to be registered with local law enforcement agencies and the state attorney general before his release from confinement.

IT IS FURTHER ORDERED and/or STRONGLY RECOMMENDED that the Bureau of Prisons shall forthwith designate the Federal Medical Center at Rochester as defendant Steven Traister's place of confinement, the Court believing that to be the facility best suited to meet defendant's diabetic medical and perhaps life

threatening needs. The Court shall be notified immediately if this recommendation is not followed.

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

Entered this 14th day of December, 2006.

BY THE COURT:

s/

JOHN C. SHABAZ
District Judge