

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

UNITED STATES OF AMERICA,

Plaintiff,

ORDER

v.

04-CR-142-C-01

SHANNON FITZGERALD

Defendant.

A hearing on the revocation of Shannon Fitzgerald's probation was held in this case on May 2, 2007, before United States District Judge Barbara B. Crabb. The government appeared by Assistant United States Attorney Robert Anderson. Defendant was present in person and by counsel, Christopher Van Wagner. Also present was Senior United States Probation Officer William T. Badger, Jr.

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

FACTS

Defendant was sentenced in the Northern District of Illinois on March 30, 2004, following her conviction for conspiracy to distribute controlled substance - MDMA, in

violation of 21 U.S.C. § 846, and § 841(b)(1)(C). This offense is a Class C felony. She was placed on probation for three years with the requirement that she spend a minimum of four months in mental health treatment. A general condition of probation prohibited defendant from committing another federal, state or local crime.

On July 30, 2004, jurisdiction of defendant's case was transferred to the Western District of Wisconsin. In December 2006, defendant violated her general condition of probation by acquiring and attempting to acquire a controlled substance by fraud. This conduct came to light when she was arrested on December 18, 2006, by the Janesville, Wisconsin police department.

Defendant's conduct falls into the category of Grade A violations, as defined by §7B1.1(a)(1) of the sentencing guidelines policy statement for violations of probation. Section 7B1.3(a)(1) of the sentencing guidelines states that upon a finding of a Grade A violation the court shall revoke probation.

CONCLUSIONS

Defendant's violation requires revocation of her probation. Accordingly, the three-year term of probation imposed on defendant on March 30, 2004, will be revoked.

Defendant's criminal history category is I. With a Grade A violation and a criminal history category of I, defendant has an advisory guideline term of imprisonment of 12 to 18

months. Defendant's original offense is a Class C felony under 18 U.S.C. § 841(b)(1)(C), which carries a maximum statutory term of imprisonment of 20 years.

After reviewing the non-binding policy statements of Chapter 7 of the sentencing guidelines, I have selected a sentence below the guideline range. This sentence will hold defendant accountable for her behavior, protect the community and provide defendant the opportunity for mental health and drug treatment.

ORDER

IT IS ORDERED that the period of probation imposed on defendant on March 30, 2004, is REVOKED and defendant is committed to the custody of the Bureau of Prisons for a term of one day. A six-month term of supervised release is to follow the term of imprisonment. As a special condition of supervised release, defendant shall abstain from the use of alcohol and illegal drug use and sales and from association with drug users and sellers and participate in a program of alcohol and drug counseling and 5 drug tests monthly thereafter. The probation office may utilize the Administrative Office of the U.S. Courts phased collection process.

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

Entered this 2d day of May, 2007.

BY THE COURT:

/s/

BARBARA B. CRABB

Chief District Judge