

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

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UNITED STATES OF AMERICA,

Plaintiff,

ORDER

v.

04-CR-169-C-01

GERALD LEE SIDWELL,

Defendant.  
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A hearing on the revocation of Gerald Lee Sidwell 's supervised release was held on May 12, 2008, before United States District Judge Barbara B. Crabb. The government appeared by Assistant United States Attorney Paul W. Connell. Defendant was present in person and by counsel, Kelly Welsh. 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 Western District of Wisconsin on April 21, 2005, following his conviction as a felon in possession of a firearm, in violation of 18 U.S.C. §

922(g)(1), a Class C felony. He was committed to the custody of the Bureau of Prisons to serve a term of imprisonment of 37 months, with a three-year term of supervised release to follow. As a special condition of supervised release, defendant was required to abstain from the use of illegal drugs. He was also prohibited from committing another federal, state or local crime. Defendant began his term of supervised release on September 14, 2007.

Defendant violated his supervised release on March 29, 2008, by possessing narcotic drugs. He was charged with possession in the Circuit Court for Rock County, Wisconsin in case no. 2008CF945. Defendant committed an additional violation of his supervised release on April 24, 2008, as shown by his positive test for methadone. At the time he was a resident of Rock Valley Community Programs in Janesville, Wisconsin.

Defendant's most serious conduct falls into the category of Grade B violations, as defined by § 7B1.1(a)(2) of the advisory sentencing guidelines policy statement for violations of supervised release. According to the guidelines, the court is to revoke supervised release upon the finding of a Grade B violation. This conforms to the same requirement in 18 U.S.C. § 3583(g)(1) that a court must revoke supervised release on a finding that the offender has possessed a controlled substance.

## CONCLUSIONS

Defendant's violations require revocation. Defendant has not benefitted from

community-based drug treatment. It is apparent that his severe drug addiction prevents him from following court orders.

Defendant's original criminal history category was III. With a Grade B violation and a criminal history category of III, he has an advisory guideline range of 8 to 14 months. The statutory maximum term of imprisonment to which he 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 advisory policy statements in Chapter 7 of the sentencing guidelines, I have selected a sentence in the middle of the guideline range. This sentence will serve to protect the community and impress upon defendant the seriousness of complying with his court-ordered conditions.

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ORDER

IT IS ORDERED that the period of supervised release imposed on defendant on April 21, 2005, is REVOKED and defendant is committed to the custody of the Bureau of Prisons for a term of 11 months. No term of supervised release shall follow. I recommend that defendant be afforded the opportunity to participate in any available drug treatment program.

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 12th day of May, 2008.

BY THE COURT  
/s/  
BARBARA B. CRABB  
Chief District Judge