

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

UNITED STATES OF AMERICA,

Plaintiff,

ORDER

v.

05-CR-14-S-01

WALTER A. HARRIS,

Defendant.

A hearing on the probation office's petition for judicial review of Walter A. Harris's probation was held in this case on June 12, 2008, before United States District Judge Barbara B. Crabb. The government appeared by Assistant United States Attorney Daniel Graber. Defendant was present in person and by counsel, Michael Lieberman. Also present was Senior United States Probation Officer Helen Raatz.

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 June 24, 2005, following his conviction as a felon in possession of a firearm, in violation of 18 U.S.C. § 922(g)(1). The offense is a Class C felony. He was placed on three years' probation.

Defendant began his probation term on June 24, 2005. In December 2006, he

violated the statutory condition of probation that prohibited him from committing another federal, state or local crime. On December 26, 2006, he was arrested for disorderly conduct (a Class B misdemeanor); possession of THC, second offense (a Class I felony); and obstructing an officer (a Class A misdemeanor). On January 31, 2008, he was convicted of the charges by a jury in the Circuit Court for Rock County, Wisconsin, Case No. 2006CF003538. On May 5, 2008, he was sentenced to 18 months' custody on each of the counts, with the sentences to run concurrently. He was also ordered to serve two years of extended supervision.

Defendant's conduct falls into the category of Grade B violations. Section 7B1.3(a)(1) of the advisory guidelines provides that the court shall revoke probation upon a finding of a Grade B violation.

CONCLUSIONS

Defendant's violations include the possession of marijuana and require revocation under 18 U.S.C. § 3583(g)(1). Accordingly, the three-year term of probation imposed on defendant on June 24, 2005, will be revoked. Defendant's criminal history category is I. With a Grade B violation and a criminal history category of I, defendant has an advisory guideline term of imprisonment of 4 to 10 months. The statutory maximum sentence that could be imposed is ten years because defendant's original conviction was for a Class C felony.

After reviewing the non-binding policy statements in Chapter 7 of the Sentencing Guidelines, I have selected a sentence at the top of the guideline range. This sentence is necessary to hold defendant accountable for his behavior, deter others from similar conduct, and protect the community.

ORDER

IT IS ORDERED that the period of probation imposed on defendant on June 24, 2005, is REVOKED and defendant is committed to the custody of the Bureau of Prisons for a term of ten months, to be served consecutively to his state of Wisconsin sentence in Rock County Case No. 2006CF003538. No term of supervised release shall follow.

Defendant does not have the financial means or earning capacity to pay the cost of incarceration. Execution of this sentence begins immediately.

Entered this 12th day of June, 2008.

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