

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

UNITED STATES OF AMERICA,

Plaintiff,

ORDER

v.

05-cr-70-bbc-1

DURON LEE,

Defendant.

A hearing on the probation office's petition for judicial review of Duron Lee's supervised release was held on April 22, 2014, before U. S. District Judge Barbara B. Crabb. The government appeared by Assistant U. S. Attorneys Rita M. Rumbelow and Julie Pfluger. Defendant was present in person and by counsel, William R. Jones. Also present was U.S. Probation Officer, Missy Kolbe from the Northern District of Illinois and Deputy Chief U. S. Probation Officer Tracy L. Russom. From the record, I make the following findings of fact.

FACTS

Defendant was sentenced in the Western District of Wisconsin on October 20, 2005, following his conviction for possessing with intent to distribute a mixture or substance containing cocaine base, a Schedule II controlled substance, a Class C felony, and possessing a firearm in connection with a drug trafficking crime, a Class A felony. He was committed to the custody of the Bureau of Prisons to serve consecutive terms of imprisonment totaling 140 months with concurrent five-year terms of supervised release to follow. On June 19,

2008, this sentence was reduced to consecutive terms of imprisonment totaling 120 months. On November 3, 2011, this sentence was reduced again to consecutive terms of imprisonment totaling 106 months with five-year terms of supervised release.

Defendant began his term of supervised release on March 1, 2013. Supervision was transferred to the Northern District of Illinois on September 3, 2013.

Defendant violated Standard Condition No. 4, which requires him to notify his probation officer within 72 hours of any change in residence or employment, when Officer Kolbe, who was supervising him, was unable to verify for a period of four months the address at which defendant was actually residing. Kolbe made at least five unannounced visits to the address defendant had given her without ever finding defendant on the premises. In addition, two different people who were in the house at one time or another during the four-month period said they did not know defendant.

Defendant's conduct falls into the category of a Grade C violation. Section 7B1.3(a)(2) of the advisory guidelines provides that the court may revoke supervised release, extend the term of supervised release or modify the conditions of supervision upon a finding of a Grade C violation.

CONCLUSIONS

Defendant's violations warrant revocation. His criminal history category is III. With a Grade C violation, he has an advisory guideline term of imprisonment of 5 to 11 months. Under 18 U.S.C. §3583(e)(3), the statutory maximum to which defendant can be sentenced on revocation is six years because the offense of which he was convicted included two counts: a Class C felony for which defendant cannot be sentenced for more than one year and a Class

A felony for which defendant cannot be sentenced for more than five years.

After reviewing the non-binding policy statements of Chapter 7 of the Sentencing Guidelines, I have selected a sentence below the guideline range to hold defendant accountable for his actions and protect the community.

ORDER

IT IS ORDERED that the period of supervised release imposed on defendant on October 20, 2005 and reaffirmed on June 18, 2008 and November 3, 2011, is REVOKED and defendant is committed to the custody of the Bureau of Prisons for a term of 2 months on each of counts 1 and 2, to be served concurrently. A six-month term of supervised release shall follow on count 2 and no supervision shall follow on count 1. All conditions previously imposed shall remain in effect upon release from imprisonment with the addition of Special Condition No. 11:

Spend 180 days in a residential reentry center, as approved by the supervising U.S. probation officer, with admission upon the first available vacancy. Defendant may be absent from the center for employment purposes, for mental health counseling and treatment and for passes consistent with program rules. Defendant is to pay his own medical expenses, if any, and is to pay 25% of his gross income toward the daily cost of residence. Defendant may be discharged early from the facility upon the approval of both the facility administrator and the supervising U.S. probation officer.

Defendant is to be registered with local law enforcement agencies and the state attorney general before his release from confinement. Defendant does not have the financial

means or earning capacity to pay the cost of his incarceration.

Entered this 22nd day of April 2014.

BY THE COURT:

/s/

BARBARA B. CRABB

U.S. District Judge