

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

UNITED STATES OF AMERICA,

Plaintiff,

ORDER

v.

06-cr-134-bbc-1

CARL MORRIS,

Defendant.

A hearing on the probation office's petition for judicial review of Carl Morris's supervised release was held on July 17, 2013, before U.S. District Judge Barbara B. Crabb. The government appeared by Assistant U.S. Attorney Rita M. Rumbelow. Defendant was present in person and by counsel, Robert B. Hurley. Also present was Senior U.S. Probation Officer Michael D. Harper.

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

FACTS

Defendant was sentenced in the Western District of Wisconsin on November 8, 2006, following his conviction for distribution of five grams or more of a mixture or substance containing cocaine base in violation of 21 U.S.C. § 841(a)(1). This is a Class B felony. Defendant was committed to the custody of the Bureau of Prisons to serve a term of imprisonment of 119 months, with a four-year term of supervised release to follow.

On April 30, 2008, defendant was granted a reduction of sentence and his term of imprisonment was reduced from 119 months to 87 months. The four-year term of supervised release to follow the term of imprisonment was affirmed. On October 17, 2011, defendant was granted a second reduction of sentence of imprisonment, to time served, under 18 U.S.C. § 3582(c)(2). Defendant began his term of supervised release on November 1, 2011.

Defendant has violated the mandatory condition restricting him from committing another federal, state or local crime on two occasions. On April 18, 2012, he was arrested and charged with receiving stolen property, a Class A misdemeanor. On June 25, 2013, he was found guilty in the Circuit Court for Dane County in case no. 2012CM000917 and sentenced to time served. On July 12, 2012, the defendant was charged in the Circuit Court for Dane County in case no. 2012CF001467 with possession with intent to deliver less than 200 grams of THC, in violation of Wis. Stat. § 961.41(1m)(h)(1). On June 25, 2013, he was found guilty of illegal possession of marijuana, a Class A misdemeanor, and sentenced to time served.

Defendant violated Standard Condition No. 7, prohibiting him from purchasing, possessing, using or administering any narcotic or controlled substance. On July 12 and August 6, 2012, he submitted urine specimens that tested positive for marijuana. On October 9, 2012, he submitted a urine specimen that tested positive for opiates.

On September 12 and September 25, 2012, defendant violated Special Condition No. 4, requiring him to participate in substance abuse treatment and testing, when he failed to report for required drug testing.

On April 2 and April 18, 2012, defendant violated Standard Condition No. 9, prohibiting him from associating with persons engaged in criminal activity and persons convicted of a felony, when he associated with convicted felons.

CONCLUSIONS

18 U.S.C. § 3583(g)(1) requires revocation of the term of supervised release for possession of a controlled substance. Defendant's possession of marijuana is a Grade B violation that was punishable by imprisonment for more than one year because defendant had previously been convicted of a drug offense. With a Grade B violation and a criminal history category III, defendant has an advisory guideline term of imprisonment of 8 to 14 months. Under 18 U.S.C. § 3583(e)(3), the statutory maximum to which he can be sentenced upon revocation is three years because the offense is a Class B felony.

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

ORDER

IT IS ORDERED that the period of supervised release imposed on defendant Carl Morris on November 8, 2006, is REVOKED and defendant is committed to the custody of the Bureau of Prisons for a term of eight months. An 18-month term of supervised release shall follow. All standard and special conditions of supervised release previously imposed shall remain in effect.

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 17th day of July, 2013.

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