

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

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UNITED STATES OF AMERICA,

Plaintiff,

ORDER

v.

06-cr-225-bbc-1

DANTE McALISTER,

Defendant.

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A hearing on the probation office's petition for judicial review of Dante McAlister's supervised release was held on February 25, 2014, before U.S. District Judge Barbara B. Crabb. The government appeared by Assistant U.S. Attorney Elizabeth Altman. Defendant was present in person and by counsel, Peter Moyers. Also present was Senior U.S. Probation Officer Michael J. Nolan.

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 May 1, 2007, following his conviction for being a felon in possession of a firearm in violation of 18 U.S.C. § 922(g)(1). This offense is a Class C felony. Defendant was committed to the custody of the Bureau of Prisons to serve a term of imprisonment of 84 months, with a three-year term of supervised release to follow. He began his period of supervised release on June 7, 2013.

Defendant violated the mandatory condition prohibiting him from committing another federal, state or local crime on February 1, 2014, as evidenced by his arrest for disorderly conduct, battery and criminal damage to property. Charges are pending in the Circuit Court for Rock County, Wisconsin, case no. 2013CF1788.

Defendant violated Special Condition No. 5 requiring him to abstain from the use of alcohol and illegal drugs when on September 17, November 8, December 12, 2013 and January 28, 2014, he submitted a urine specimen that tested positive for marijuana and he admitted using marijuana.

Defendant's conduct falls into the category of Grade C violations. In addressing such violations, § 7B1.3(a)(2) of the Guidelines Manual advises that the court has the discretion to revoke supervised release, extend the term or modify the conditions of release.

## CONCLUSIONS

Defendant's violations warrant revocation. Defendant's criminal history category is VI. With Grade C violations, he has an advisory guideline range of imprisonment of 8 to 14 months. The statutory maximum to which he can be sentenced upon revocation is two years under 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 non-binding policy statements of Chapter 7 of the Sentencing Guidelines, I have selected a sentence within the 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 on June 7, 2013, is REVOKED and defendant is committed to the custody of the Bureau of Prisons for a term of 10 months. A 24-month term of supervised release shall follow. All standard and special conditions of supervised release previously imposed shall remain in effect.

Defendant does not have the financial means or earning capacity to pay the cost of his incarceration. Defendant is to be registered with local law enforcement agencies and the state attorney general before his release from confinement.

Entered this 26th day of February, 2014.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge