

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

UNITED STATES OF AMERICA,

Plaintiff,

ORDER

v.

06-cr-98-bbc-02

JABALI RUCKER,

Defendant.

A hearing on the probation office's petition for judicial review of Jabali Rucker's supervised release was held on October 10, 2013, before United States District Judge Barbara B. Crabb. The government was represented by Assistant U.S. Attorney Paul W. Connell. Defendant appeared in person and by Associate Federal Defender, Kelly Welsh. 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 August 30, 2006, following his conviction for possession with intent to distribute five grams or more of a mixture or substance containing cocaine base, in violation of 21 U.S.C. § 841(a)(1), and 18 U.S.C. § 2. This offense is a Class B felony. Defendant was committed to the custody of the Bureau of Prisons to serve a term of imprisonment of 105 months, with a four-year term of supervised release to follow. On April 23, 2008, defendant's sentence

was amended and a 70-month term of imprisonment was imposed, with a four-year term of supervised release to follow.

Defendant began his term of supervised release on October 20, 2010.

In December 2012, as well as in January, February, March, April, May and June 2013, defendant violated Standard Condition No. 2, which required him to submit a truthful and complete written report within the first five days of each month, by failing to submit reports as required.

On April 30, 2013, defendant violated Standard Condition No. 6, which required him to notify the probation office within 72 hours of any change in residence or employment, by failing to provide notification to his probation officer of a change in his residence.

Defendant violated Special Condition No. 4, prohibiting him from the use of alcohol and illegal drugs, prohibiting him from associations with drug users and sellers and requiring him to participate in substance abuse treatment, by failing to attend substance abuse counseling from January through July 2013, and failing to report for scheduled urinalyses and breath tests on April 13, May 6, June 5 and July 6, 2013.

Defendant violated Standard Condition No. 11, requiring him to notify the probation office within 72 hours of being arrested or questioned by a law enforcement officer, when on April 29 and June 12, 2013, defendant was issued traffic citations and on August 10, 2013, when defendant was questioned by a Town of Beloit police officer

and defendant failed to notify the probation officer of these law enforcement contacts as required.

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

CONCLUSIONS

Defendant's violations warrant revocation. Accordingly, the four-year term of supervised release imposed in this case on August 30, 2006 and amended on April 23, 2008, is revoked.

Defendant's criminal history category is I. With a Grade C violation, defendant has an advisory guideline range of imprisonment of three to nine months. Under 18 U.S.C. § 3583(e)(3), the statutory maximum term to which defendant can be sentenced upon revocation is three years' imprisonment because defendant's original offense of conviction was a Class B felony.

After reviewing the non-binding policy statements of Chapter 7 of the Guidelines Manual, I have selected a sentence below the advisory guideline range. The intent of this sentence is to hold defendant accountable for his violations.

ORDER

IT IS ORDERED that the period of supervised release imposed on Jabali Rucker

on August 30, 2006, and amended on April 23, 2008, is REVOKED and defendant is committed to the custody of the Bureau of Prisons for a term of one month. No term of supervised release shall follow.

Defendant is neither a flight risk nor a danger to the community. Accordingly, execution of the sentence of imprisonment is stayed until October 15, 2013, between the hours of 10:00 a.m. and noon, when defendant is to report to an institution to be designated by further court order. The present conditions of supervised release are continued until October 15, 2013.

Defendant does not have the financial means or earning capacity to pay the cost of his incarceration.

Entered this 16th day of September 2013.

BY THE COURT:

/s/

BARBARA B. CRABB

U.S. District Judge