

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

UNITED STATES OF AMERICA,

Plaintiff,

ORDER

v.

07-cr-123-bbc-1

LONNIE WHITAKER,

Defendant.

A hearing on the probation office's petition for judicial review of Lonnie Whitaker's supervised release was held on November 4, 2014, before U.S. District Judge Barbara B. Crabb. The government appeared by Assistant United States Rita M. Rumbelow. Defendant was present in person and by counsel, Mark A. Eisenberg. Also present was United States Probation Officer Jelani Brown.

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 January 29, 2008, 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 41 months, with a 36-month term of supervised release to follow. Defendant began his term of supervised release on July 21, 2011.

Defendant violated the mandatory conditions of his supervised release that prohibit him from committing another federal, state or local crime and from illegally possessing a controlled substance. On July 15, 2014, defendant pleaded guilty in the U.S. District Court for the Western District of Wisconsin to illegally possessing with intent to distribute heroin and cocaine and use of a firearm in furtherance of a drug trafficking crime. While he was involved in drug dealing during his term of supervised release, defendant lied to his probation officer about his residence and the car he was driving.

Defendant's conduct falls into the category of Grade A violations. 18 U.S.C. §3583(g) requires mandatory revocation for possession of a controlled substance. 18 U.S.C. § 3583(h) authorizes another term of supervised release if defendant's term of supervised release is revoked.

CONCLUSIONS

Defendant's violations require revocation. Accordingly, the 36-month term of supervised release imposed on defendant on January 29, 2008 will be revoked. Defendant's criminal history category is III. With a Grade A violation, he has an advisory guideline range

of imprisonment of 18 to 24 months. The statutory maximum to which he can be sentenced upon revocation is two years because his original conviction was for 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 actions and to protect the community.

ORDER

IT IS ORDERED that the period of supervised release imposed on defendant Lonnie Whitaker, on January 29, 2009 is REVOKED and defendant is committed to the custody of the Bureau of Prisons for a term of 18 months, with no supervised release to follow. The term of imprisonment is to run consecutively to the sentence imposed on count 3 in Western District of Wisconsin Case No. 14-cr-17-bbc-1 and concurrently with the sentence imposed in count 1 in that case.

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

Entered this 4th day of November, 2014.

BY THE COURT:

/s/
BARBARA B. CRABB
U.S. District Judge