

United States District Court

Western District Of Wisconsin

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE
(for offenses committed on or after November 1, 1987)

V.

Case Number: 07-CR-143-C-01

ROBERT D'ANGELO

Defendant's Attorney: Marcus Jens Berghahn

The defendant, Robert D'Angelo, pleaded guilty to counts 6 and 34 of the indictment.

Counts 1-5, 7-33, and 35-39 of the indictment are dismissed on the motion of the United States.

ACCORDINGLY, the court has adjudicated defendant guilty of the following offense(s):

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
18 U.S.C. § 1341	Mail Fraud, a Class C felony	April 8, 2004	6
26 U.S.C. § 7206(1)	False Statements on Income Tax Return, a Class E felony	April 15, 2005	34

The defendant is sentenced as provided in pages 2 through 6 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

IT IS FURTHER ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant shall notify the court and United States Attorney of any material change in the defendant's economic circumstances.

Defendant's Date of Birth: July 29, 1944
Defendant's USM No.: 06531-090
Defendant's Residence Address: 6917 Old Sauk Court
 Madison, WI 53717
Defendant's Mailing Address: 6917 Old Sauk Court
 Madison, WI 53717

April 22, 2008

 Date of Imposition of Judgment
 /s/ Barbara B. Crabb

 Barbara B. Crabb
 District Judge

 April 23, 2008

 Date Signed:

IMPRISONMENT

As to counts 6 and 34 of the indictment, it is adjudged that defendant is committed to the custody of the Bureau of Prisons for imprisonment for a term of 12 months plus one day, on each count, with the terms to be served concurrently.

Defendant is neither a flight risk nor a danger to the community. Accordingly, execution of the sentence of imprisonment is stayed until May 23, 2008, between the hours of noon and 2:00 p.m., when defendant is to report to an institution to be designated by further court order. The present release conditions are continued until May 23, 2008.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL
By _____
Deputy Marshal

SUPERVISED RELEASE

The terms of imprisonment are to be followed by a two-year term of supervised release with standard conditions as to count 6 and a one-year term of supervised release as to count 34, with both terms to run concurrently.

Defendant shall report to the probation office in the district to which defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

Defendant shall not commit another federal, state, or local crime.

Defendant shall not illegally possess a controlled substance.

If defendant has been convicted of a felony, defendant shall not possess a firearm, destructive device, or other dangerous weapon while on supervised release.

Defendant shall cooperate with the collection of DNA by the U.S. Justice Department and/or the U.S. Probation and Pretrial Services Office as required by Public Law 108-405.

If this judgment imposes a fine or a restitution obligation, it shall be a condition of supervised release that defendant pay any such fine or restitution that remains unpaid at the commencement of the term of supervised release in accordance with the Schedule of Payments set forth in the Financial Penalties sheet of this judgment.

Defendant shall comply with the standard conditions that have been adopted by this court (set forth on the next page).

In light of the nature of the offense of conviction, as well as defendant's history and characteristics, the following special conditions of supervised release are warranted. Defendant is to:

- 1) Register with local law enforcement agencies and the state attorney general as directed by the supervising U.S. probation officer;
- 2) Submit his person, residence, office, or vehicle to a search conducted by a U.S. probation officer at a reasonable time and in a reasonable manner whenever the probation officer has reasonable suspicion of contraband or evidence of a violation of a condition of release; failure to submit to a search may be a ground for revocation; defendant shall warn any other residents that the premises he is occupying may be subject to searches pursuant to this condition;
- 3) Provide the supervising U.S. probation officer any and all requested financial information;
- 4) Refrain from incurring new credit charges and opening additional lines of credit without approval of the supervising U.S. probation officer;
- 5) Refrain from seeking or maintaining any self-employment in which he would have unsupervised fiduciary or financial responsibilities unless he has the prior approval of the supervising U.S. probation officer; and
- 6) Cooperate with the Collection Division of the IRS concerning the payment of all taxes, interest and penalties due and owing and allow unrestricted communication between the Collection Division and the probation office to monitor compliance.

Although the instant offense is not drug related, mandatory drug testing as set forth by 18 U.S.C. §§ 3563(a) and 3583(d) is not waived because defendant has admitted using marijuana in the distant past. Defendant shall submit to no more than four random urinalysis tests during the term of supervision. I will determine further action if any results indicate illicit drug use.

STANDARD CONDITIONS OF SUPERVISION

- 1) Defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) Defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) Defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) Defendant shall support his or her dependents and meet other family responsibilities;
- 5) Defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) Defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) Defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute or administer any narcotic or other controlled substance, or any paraphernalia related to such substances except as prescribed by a physician;
- 8) Defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) Defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
- 10) Defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer;
- 11) Defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) Defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
- 13) As directed by the probation officer, defendant shall notify third parties of risks that may be occasioned by defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm defendant's compliance with such notification requirement.

CRIMINAL MONETARY PENALTIES

Defendant shall pay the following total financial penalties in accordance with the schedule of payments set forth below.

<u>Count</u>	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
6	\$100.00	\$4,000.00	\$0.00
34	\$100.00		
Total	\$200.00	\$4,000.00	\$0.00

It is adjudged that defendant is to pay a \$100 criminal assessment penalty on each count of conviction, for a total of \$200, to the Clerk of Court for the Western District of Wisconsin immediately following sentencing.

Although defendant is responsible for the cost of prosecution pursuant to 26 U.S.C. § 7206(1), the government has indicated that no costs are owing.

I note that defendant made a payment totaling \$37,955 to the IRS on January 31, 2008. This will offset the civil tax liability owed by defendant. Because defendant is subject to special condition no. 6, it is not necessary to impose any restitution requirement on him. Defendant has the ability to pay a fine within the advisory guideline range.

The government has recommended a \$30,000 fine, but I am convinced that a \$4,000 fine is more appropriate. Such a fine will require defendant to pay \$1,000 for each year that he structured cash transactions illegally. Payment of the entire fine is due within 30 days of the judgment.

SCHEDULE OF PAYMENTS

Payments shall be applied in the following order:

- (1) assessment;
- (2) restitution;
- (3) fine principal;
- (4) cost of prosecution;
- (5) interest;
- (6) penalties.

The total fine and other monetary penalties shall be due in full immediately unless otherwise stated elsewhere.

Unless the court has expressly ordered otherwise in the special instructions above, if the judgment imposes a period of imprisonment, payment of monetary penalties shall be due during the period of imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of court, unless otherwise directed by the court, the probation officer, or the United States Attorney.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

In the event of a civil settlement between victim and defendant, defendant must provide evidence of such payments or settlement to the Court, U.S. Probation office, and U.S. Attorney's office so that defendant's account can be credited.