

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

CHRISTOPHER J. JOSE,

Defendant.

ORDER

12-cr-44-bbc-1

A hearing on the probation office's petition for judicial review of Christopher J. Jose's supervised release was held on July 21, 2015, 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 Erika L. Bierma. 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 October 2, 2012, following his conviction for failure to update the sex offender registry, in violation of 18 U.S.C. § 2250. This offense is a Class C felony. He was committed to the custody of the Bureau of Prisons to serve a term of imprisonment of 14 months, with a three-year term of supervised release to follow.

Defendant began his initial term of supervised release on April 15, 2013. On June 6, 2013, his term of supervision was revoked after he violated the conditions of his supervised release by having contact with a ten-month-old female infant without permission, possessing a cellular telephone with visual and audio recording capabilities without permission, associating with a convicted felon without permission and leaving the judicial district without permission. He was committed to the custody of the Bureau of Prisons to serve a nine-month term of imprisonment, with a 27-month term of supervised release to follow.

Defendant began his second term of supervised release on February 24, 2014. He violated the special condition of his supervision requiring him to spend 180 days in a residential reentry center. He was discharged from Rock Valley Community Programs, Inc., on April 9, 2014, after he had received seven misconduct reports. On April 24, 2014, his second term of supervision was revoked. He was committed to the custody of the Bureau of Prisons to serve an 8-month term of imprisonment, with a 19-month term of supervised release to follow.

Defendant began his third term of supervised release on December 8, 2014. He violated Special Condition No. 11, requiring him to undergo a psychosexual evaluation, which may involve use of Abel Screen and polygraph or plethysmograph examinations or similar technology, as approved by the supervising U.S. probation officer. This condition also required defendant to participate in and successfully complete an outpatient sex offender counseling program if recommended by the evaluator, as approved by the supervising U.S. probation officer. Defendant was to follow all restrictions and treatment

requirements of the program, but he failed to attend sex offender counseling on May 12, 19 and 26, 2015, and on June 9 and 16, 2015. He also failed to report for a scheduled polygraph examination on April 13, 2015.

Defendant violated Standard Condition No. 2, requiring him to report to the probation officer in a manner and frequency as directed by the supervising U.S. probation officer, when he failed to meet with Senior U.S. Probation Officer Michael Nolan on June 17, 2015, as directed.

Defendant's conduct falls into the category of Grade C violations. Section 7B1.3(a)(2) of the advisory guidelines provides that the court has the discretion to revoke supervised release, extend it or modify the conditions of release.

CONCLUSIONS

Defendant's violations warrant revocation. Defendant's criminal history falls into category II. With a Grade C violation his advisory guideline range of imprisonment is four to ten months. Under 18 U.S.C. § 3583(e)(3), the statutory maximum term of imprisonment to which defendant can be sentenced upon revocation is seven months because his original offense of conviction was for a Class C felony and he has served revocation sentences of nine months and eight months.

After reviewing the non-binding policy statements of Chapter 7 of the Guidelines Manual, I find that an advisory guideline sentence of seven months imprisonment is reasonable and no greater than necessary to hold defendant accountable for his violations

by promoting respect for the law and protect the community.

ORDER

IT IS ORDERED that the period of supervised release imposed on defendant Christopher J. Jose on April 24, 2014, is REVOKED and defendant is committed to the custody of the Bureau of Prisons for a term of seven months. No term of supervised release is imposed because defendant has demonstrated that he is not amenable to supervision.

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

Entered this 28th day of July 2015.

BY THE COURT:

/s/

BARBARA B. CRABB

U.S. District Judge