

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 v. ) Cause No. 1:02-cr-0123-SEB-TAB-2  
 )  
 JASON WILBURN, )  
 )  
 Defendant. )

**REPORT AND RECOMMENDATION**

On April 2, the Court held a hearing on the Petition for Warrant or Summons for Offender Under Supervision filed on March 16, 2015. Defendant Jason Wilburn appeared in person with his appointed counsel, William Dazey. The government appeared by Winfield Ong, Assistant United States Attorney. U. S. Parole and Probation appeared by Officer Michael Burress.

The Court conducted the following procedures in accordance with Fed. R. Crim. P. 32.1(a)(1) and 18 U.S.C. § 3583:

1. The Court advised Defendant Wilburn of his rights and provided him with a copy of the petition. Defendant Wilburn waived his right to a preliminary hearing.

2. After being placed under oath, Defendant Wilburn admitted the violations.

[Docket No. 64.]

3. The allegations to which Defendant Wilburn admitted, as fully set forth in the petition, are:

**Violation  
Number**

**Nature of Noncompliance**

- 1           **“The defendant shall refrain from any unlawful use of a controlled substance.”**

The defendant tested positive for marijuana on November 4, 2014 (See Report on Offender Under Supervision filed December 22, 2014), February 5, February 20, February 27, 2015 and March 4, 2015. The defendant admitted using illegal drugs each time to produce the positive urine samples.

- 2           **“The defendant shall participate in a program of testing and/or treatment for substance abuse and shall pay a portion of the fees of treatment as directed by the probation officer.”**

The defendant failed to submit urine samples as required on January 6, 2015; February 14, February 22, February 24, February 25, February 26, 2015, and March 1,2 015. Furthermore, the defendant missed schedule substance abuse treatment sessions on December 11, 2014, and February 24, 2015.

4.       The parties stipulated that:

- (a)       The highest grade of violation is a Grade C violation.
- (b)       Defendant’s criminal history category is III.
- (c)       The range of imprisonment applicable upon revocation of supervised release, therefore, is 5 to 11 months’ imprisonment.

5.       The parties jointly recommended Defendant Wilburn’s current conditions of supervised release be modified to include residing at a RRC facility for a period of up to 180 days. Defendant Wilburn is have a mental health assessment and to follow any recommended treatment plan.

The Magistrate Judge, having considered the factors in 18 U.S.C. § 3553(a), and as more fully set forth on the record, finds that the Defendant violated the conditions in the petition, that his supervised release should be modified, and that he should reside at RRC facility for a period

of up to 180 days. Defendant is to have a mental health assessment and is to follow any recommended treatment plan. Defendant is to self-surrender upon notification of designation.

The parties are hereby notified that the District Judge may reconsider any matter assigned to a Magistrate Judge. The parties waived the fourteen-day period to object to the Report and Recommendation.

Dated: 04/07/2015

A handwritten signature in black ink, appearing to read "T. Baker", is written above a horizontal line.

Tim A. Baker  
United States Magistrate Judge  
Southern District of Indiana

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