

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.) Cause No. 1:07-cr-0097-SEB-DML
)
 ANTHONY DAVIS,) - 01
)
 Defendant.)

REPORT AND RECOMMENDATION

On September 9, 2015 and September 27, 2016, the Court held hearings on the Petition for Warrant or Summons for Offender Under Supervision filed on July 31, 2015. Defendant Davis appeared in person with his appointed counsel Michael Donahoe. The government appeared by Matthew Rinka, Assistant United States Attorney. U. S. Parole and Probation appeared by Officer Chris Dougherty.

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 Davis of his rights and provided him with a copy of the petition. Defendant Davis waived his right to a preliminary hearing.

2. After being placed under oath, Defendant Davis admitted violations 1, 2, and 3.

[Docket No. 38.]

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

Violation Number **Nature of Noncompliance**

- 1 **“The defendant shall not commit another federal, state, or local crime.”**
- 2 **“The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon.”**
- 3 **“The defendant shall not unlawfully possess a controlled substance.”**

On July 25, 2015, the Indianapolis Metropolitan Police Department responded to a call that a man, possessing a handgun, was causing trouble. Upon arrival, officers located Anthony Davis sitting on the porch. When the officers approached, Mr. Davis was holding a bag of food from McDonalds and a beer bottle. As the officers were notified a handgun may be involved, they asked Mr. Davis to stand up in order to pat him down. When he stood up, he allegedly dropped his bag of food on to the ground right in front of the officers and a Keltec Handgun, Serial #AA5J20, fell out of the bag. He was immediately placed in handcuffs. Upon searching Mr. Davis, officers located a sandwich bag containing marijuana. The marijuana was later weighed in at 27.12 grams. The officers also noted the Keltec Handgun had an extended clip with 14 rounds total including one in the chamber.

On July 28, 2015, charges were filed under cause number 49G20-1507-F4-026498 for Unlawful Possession of a Firearm by Serious Violent Felon, Level 4 Felony, and Possession of Marijuana, Class B Misdemeanor. Presently, Mr. Davis remains in custody on a \$30,000 surety bond and is scheduled for a Jury Trial on December 17, 2015.

- 4. The parties stipulated that:
 - (a) The highest grade of violation is a Grade B violation.
 - (b) Defendant’s criminal history category is V.
 - (c) The range of imprisonment applicable upon revocation of supervised release, therefore, is 18 to 24 months’ imprisonment.

5. The government argued for a sentence of 18 to 24 months to be served consecutively to the sentence imposed under Cause No. 15-cr-0156-TWP-MJD-1 with no supervised release to follow. The defendant argued for a sentence less than 18 months to be

served concurrently to the sentence imposed under Cause No. 15-cr-0156-TWP-MJD-1 with no supervised release to follow.

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 revoked, and that he should be sentenced to the custody of the Attorney General or his designee for a period of twenty (20) months with no supervised release to follow. Ten (10) months of the sentence imposed on the violation shall be served concurrently to the sentence imposed under Cause No. 15-cr-0156-TWP-MJD-1 and ten (10) months of the sentence imposed on the violation shall be served consecutively to the sentence imposed under Cause No. 15-cr-0156-TWP-MJD-1. The Defendant is to be taken into custody immediately pending the District Judge's action on this Report and Recommendation.

The parties are hereby notified that the District Judge may reconsider any matter assigned to a Magistrate Judge. The parties have fourteen days after being served a copy of this Report and Recommendation to serve and file written objections with the District Judge.

Dated: 09/28/2016



Denise K. LaRue
United States Magistrate Judge
Southern District of Indiana

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