

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.) Cause No. 1:07-cr-0107-SEB-MJD
)
 MARIO ROBINSON,) - 01
)
 Defendant.)

REPORT AND RECOMMENDATION

On September 26, 2016, the Court held a hearing on the Petition for Warrant or Summons for Offender Under Supervision filed on September 8, 2014. Defendant Robinson appeared in person with his appointed counsel Gwendolyn Beitz. The government appeared by Brad Shepard, Assistant United States Attorney. U. S. Parole and Probation appeared by Officer Jason Phillips.

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 Robinson of his rights and provided him with a copy of the petition. Defendant Robinson waived his right to a preliminary hearing.
2. After being placed under oath, Defendant Robinson admitted violations 1, 2, 3, 4, and 5. [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 refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician.”**

2 **“The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered.”**

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

On May 13, 2014, Mr. Robinson submitted a urine sample which tested positive for cocaine. He initially denied using the substance. As a result, the sample was forwarded to Alere Laboratory where the positive result was confirmed. When presented with this information, he admitted using cocaine. In addition to the cocaine use, the offender failed to report for random urine testing on June 15, 2014, and submitted diluted samples on June 24, July 9, and July 22, 2014.

4 **“The defendant shall not commit another federal, state, or local crime.”**

5 **“The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon.”**

On September 8, 2014, the offender was arrested for resisting law enforcement and possession of a firearm. According to the police report, he was observed in a blue BMW with an incorrect license plate. When officers attempted to initiate a traffic stop, he fled at a high rate of speed. The defendant eventually lost control of the vehicle and crashed. He refused to obey the commands of officers to show his hands. After continued refusal, he was forcibly removed from the vehicle. He still would not show his hands and a struggle ensued. He was eventually taken to the ground and sprayed with OC/CS spray. Approximately 10-15 feet from the passenger side of the vehicle, officers found a Ruger, 9mm, semi-auto handgun. The only window rolled down was the passenger window.

4. The parties stipulated that:

- (a) The highest grade of violation is a Grade A violation.
- (b) Defendant's criminal history category is V.
- (c) The range of imprisonment applicable upon revocation of supervised release, therefore, is 30 to 37 months' imprisonment.

5. The parties jointly recommended a sentence of 24 months in the Federal Bureau of Prisons with no supervised release to follow. Defendant requested a recommendation of placement at FCC Terre Haute or FCI Greenville and placement in a drug treatment program.

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 24 months with no supervised release to follow. The Defendant is to be taken into custody immediately pending the District Judge's action on this Report and Recommendation. The Court will make a recommendation of placement at FCC Terre Haute and FCI Greenville and placement in a drug treatment program.

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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