

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v. Cause No. 1:09-cr-0086-SEB-DKL
)
EDGAR JIMINEZ,)
)
 Defendant.)

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REPORT AND RECOMMENDATION

On June 17, 2014, the Court held a hearing on the Petition for Warrant or Summons for Offender Under Supervision filed on October 25, 2013. Defendant Edgar Jiminez appeared in person with his appointed counsel, Bill Dazey. The government appeared by Barry Glickman, Assistant United States Attorney. U. S. Parole and Probation appeared by Officer Diane Asher.

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 Mr. Jiminez of his rights and provided him with a copy of the petition. Mr. Jiminez waived his right to a preliminary hearing.
2. After being placed under oath, Mr. Jiminez admitted the violations. [Docket No. 196.]
3. The allegations to which Defendant admitted, as fully set forth in the petition, are:

<u>Violation Number</u>	<u>Nature of Noncompliance</u>
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1	“The defendant shall not commit another federal, state, or local crime.”
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- 2 **“Upon completion of imprisonment, the defendant shall be surrendered to Immigration authorities for deportation proceedings pursuant to the Immigration and Naturalization Act, and if detained shall not be required to report to the probation officer within 72 hours of release from imprisonment. The defendant shall not enter the U.S. illegally. If granted permission by Immigration authorities to remain in or legally enter the U.S. during the period of supervised release, the defendant shall report immediately to the probation officer.”**

On October 8, 2013, a United States Border Patrol Agent encountered the defendant in Sunland Park, New Mexico. On October 10, 2013, a Criminal Complaint was filed in the District of New Mexico, charging the defendant with Re-Entry after Deportation on October 8, 2013, in violation of 8 U.S.C. 1326(a)(1). This cause is pending under case number 2:13MJ003170-LAM, and the defendant remains in federal custody. The defendant did not have permission to remain in or re-enter the United States.

4. The parties stipulated that:
- (a) The highest grade of violation is a Grade B violation.
 - (b) Defendant’s criminal history category is I.
 - (c) The range of imprisonment applicable upon revocation of supervised release, therefore, is 4-10 months’ imprisonment.

5. The Parties recommended a sentence of 4 months consecutive to the sentence Mr. Jiminez is to receive from the District of New Mexico 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 he is in agreement with said recommendation.

Accordingly, the Magistrate Judge finds 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 4 months to be served consecutively to the sentence he is to receive from the District of New Mexico 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 parties waived the fourteen-day period to object to the Report and Recommendation.

Dated: 06/20/2014



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

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