

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.) Cause No. 1:10-cr-0219-TWP-DML-1
)
TAMMY ROBERTS,)
)
 Defendant.)

REPORT AND RECOMMENDATION

On December 5, 2014, the Court held a hearing on the Petition for Warrant or Summons for Offender Under Supervision filed on June 7, 2014. Defendant Roberts appeared in person with her appointed counsel, Mike Donahoe. The government appeared by Matt Rinka, Assistant United States Attorney. U. S. Parole and Probation appeared by Officer Shelly McKee.

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 Roberts of her rights and provided her with a copy of the petition. Defendant Roberts waived her right to a preliminary hearing.
2. After being placed under oath, Defendant Roberts admitted violations 1, 3, and 4.
[Docket No. 10]
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.”**

As previously reported to the Court, June 29, 2011, Ms. Roberts was arrested by the Indianapolis Metropolitan Police Department for the offense of Theft/Receiving Stolen Property (Cause #11046677). She was placed on the pretrial diversion program, which she successfully completed.

3 **“The defendant is to pay restitution at a rate of not less than \$50 per month or 10% of his or her net earnings, whichever is greater. The defendant will also apply 100 percent of his or her yearly federal and state tax refunds toward the payment of restitution. The defendant shall not change exemptions without prior notice of the supervising probation officer.”**

Since Ms. Roberts’ supervision commenced, she would have paid a total of \$1,000. She has remitted seven payments totaling \$195, thus being in arrears \$805.

4 **“The defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month.”**

Ms. Roberts reported no checking account when she submitted her monthly supervision report for the month of August 2012. This was not true as evidenced by the investigation of the United States Postal Inspector and by Ms. Roberts’ own admission to this officer. Ms. Roberts reported she opened the account at a bank in Indianapolis. According to the report of investigation prepared by the U.S. Postal Investigator, a total of seven non-sufficient fund checks were drawn under JP Morgan Chase Bank Account #3101311810. The driver’s license number, #8937-02-5331, is assigned to Ms. Roberts, who was the individual who negotiated each check.

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.

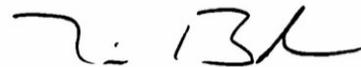
(d) Violation 2 would be dismissed.

5. The Parties, by agreement, recommended a sentence of four (4) months in the Federal Bureau of Prisons 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 conditions 1, 3, and 4 in the petition, that her supervised release should be revoked, and that she should be sentenced to the custody of the Attorney General or his designee for a period of four (4) months, with no supervised release to follow. Other than as set forth in the petition, Defendant has been compliant with her release conditions. The Court also notes that Defendant turned herself in, she is not charged with a crime of violence, she is facing some health issues, and she has fully satisfied her restitution obligations. 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: 12/11/2014



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

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