

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.) Cause No. 1:13-cr-0203-TWP-TAB-1
)
 CALVIN MURRAY,)
)
 Defendant.)

REPORT AND RECOMMENDATION

On August 14, 2015, the Court held a hearing on the Petition for Warrant or Summons for Offender Under Supervision filed on July 22, 2015. Defendant Murray appeared in person with his appointed counsel, Joseph Cleary. The government appeared by William McCoskey, 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 Murray of his rights and provided him with a copy of the petition. Defendant Murray waived his right to a preliminary hearing.

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

[Docket No. 4.]

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

**Violation
Number**

Nature of Noncompliance

- 1 **“The defendant shall notify the probation officer at least ten days prior to any change in residence or employment.”**

On July 14, 2015, contact was made with the offender’s brother at the offender’s last reported address, 1132 N. Tibbs, Indianapolis, Indiana. The probation officer was informed that the offender had not resided at that address “for approximately two months.” The offender’s brother stated he heard that the offender was staying on the “south side of Indianapolis.” The offender’s whereabouts are currently unknown.

- 2 **“The defendant shall participate in a substance abuse treatment program at the direction of the probation officer, which may include no more than eight drug tests per month. The defendant shall abstain from the use of all intoxicants, including alcohol, while participating in a substance abuse treatment program. The defendant is responsible for paying a portion of the fees of substance abuse testing and/or treatment in accordance with his/her ability to pay.”**

The offender failed to report for scheduled drug screens on June 15, 16, 25, 26, 27, and 29, and July 7, 8, 17, 18, 19, and 20, 2015. The offender was required to pay a \$150 co-pay fee, which was to be paid by June 5, 2015. As of this date, the offender has paid \$50 toward this obligation.

4. The parties stipulated that:
- (a) The highest grade of violation is a Grade C violation.
 - (b) Defendant’s criminal history category is IV.
 - (c) The range of imprisonment applicable upon revocation of supervised release, therefore, is 6 to 12 months’ imprisonment.
5. The parties agreed to the guideline range. The Government argued for the high end of the guideline range with defendant arguing for the low end of the guideline range. The parties also agreed that no supervision should follow any sentence imposed

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 10 months with no supervised release to follow. The Court also makes a recommendation to the Federal Bureau of Prisons to provide mental health treatment. 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: 08/18/2015



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

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