

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.) Cause No. 1:15-cr-0206-SEB-DML
)
 VINCER MITCHELL,) - 01
)
 Defendant.)

REPORT AND RECOMMENDATION

On November 16, 2016, the Court held a hearing on the Petition for Warrant or Summons for Offender Under Supervision filed on September 27, 2016. Defendant Mitchell appeared in person with his appointed counsel Michael Donahoe. The government appeared by Winfield Ong, 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 Mitchell of his rights and ensured he had a copy of the Petition. Defendant Mitchell waived his right to a preliminary hearing.
2. After being placed under oath, Defendant Mitchell admitted violations 2, and 3.
[Docket No. 23.]
3. The allegations to which Defendant admitted, as fully set forth in the Petition, are:

**Violation
Number**

Nature of Noncompliance

- 2 **“You shall not use or possess any controlled substances prohibited by applicable state or federal law, unless authorized to do so by a valid prescription from a licensed medical practitioner. You shall follow the prescription instructions regarding frequency and dosage.”**

As previously reported to the Court, on November 11, 2015, the offender provided a urine specimen which tested positive for marijuana. He admitted smoking marijuana.

- 3 **“You shall submit to substance abuse testing to determine if you have used a prohibited substance or to determine compliance with substance abuse treatment. Testing may include no more than 8 drug test[s] per month. You shall not attempt to obstruct or tamper with the testing methods.”**

The offender failed to report for scheduled drug screens on September 22, and 23, 2016.

4. The government orally moved to dismiss violation 1 and the same was granted.

5. The parties stipulated that:

- (a) The highest grade of violation is a Grade C violation.
- (b) Defendant’s criminal history category is VI.
- (c) The range of imprisonment applicable upon revocation of supervised release, therefore, is 8 to 14 months’ imprisonment.

6. The parties jointly recommended a sentence of 8 months 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 set forth in violation numbers 2 and 3 of the Petition, and recommends that Defendant’s supervised release should be **REVOKED**, and further recommends that Defendant be sentenced to the custody of the

Attorney General or his designee for a period of eight (8) 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 parties are hereby notified that the District Judge may reconsider any matter assigned to a Magistrate Judge. The parties waived the fourteen-day period to object to the Report and Recommendation.

Dated: 17 NOV 2016



Mark J. Dinsmore
United States Magistrate Judge
Southern District of Indiana

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