

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Cause No. 1:16-cr-0105-JRS-MJD
)	
VICTOR BUTLER,)	
)	- 01
Defendant.)	

REPORT AND RECOMMENDATION

On March 5, and 13, 2020, the Court held hearings on the Petition for Warrant or Summons for Offender Under Supervision filed on September 5, 2019, and the Supplemental Petition filed on March 6, 2020. Defendant Butler appeared in person with his appointed counsel Mario Garcia. The government appeared by Nick Linder and Peter Blackett, Assistant United States Attorney. U.S. Parole and Probation appeared by Officers Brent Witter and Timothy Hardy.

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 Butler of his rights and provided him with a copy of the Petition and the Supplemental Petition. Defendant Butler orally waived his right to a preliminary hearing.

2. After being placed under oath, Defendant Butler admitted to Violation No. 3 as set forth in the Supplemental Petition. [Docket No. 114.] Government orally moved to withdraw the remaining violations, which motion was granted by the Court.

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

<u>Violation Number</u>	<u>Nature of Noncompliance</u>
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3	“The defendant shall not commit another federal, state, or local crime.”
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On September 6, 2019, Victor Butler was arrested and charged with Count 1, Attempted Murder (Level 1 Felony) and Count 2, Unlawful Possession of a Firearm by a Serious Violent Felon, under cause number 49G01-1909-F1-035144 in Marion County Superior Court. According to the charging information, on September 2, 2019, Mr. Butler attempted to commit the crime of murder by intentionally firing a gun at a police vehicle driven by Officer Gregory Shue.

On February 18, 2020, an amended information was filed by the state of Indiana charging the offender with Count 3, Criminal Recklessness (Level 6 Felony), in Marion County Superior Court. According to the information, on September 2, 2019, Victor Butler did recklessly perform an act that created a substantial risk of bodily injury to Gregory Shue while armed with a deadly weapon, to wit: a handgun, by firing the handgun in the direction of a vehicle driven by Gregory Shue.

On February 27, 2020, Mr. Butler plead guilty to Count 2, Unlawful Possession of a Firearm by a Serious Violent Felon and Count 3, Criminal Recklessness, in Marion County Superior Court. He was adjudicated on that same date. On March 2, 2020, the state court dismissed Count 1, Attempted Murder pursuant to the terms of the plea agreement.

4. The Court finds that:


- (a) The highest grade of violation is a Grade A violation.
- (b) Defendant’s criminal history category is II.
- (c) The range of imprisonment applicable upon revocation of supervised release, therefore, is 15 to 21 months’ imprisonment.

5. The parties jointly recommended a sentence of fifteen (15) months with no supervised released to follow. Defendant requested placement at USP Marion, Illinois.

The Magistrate Judge, having considered the factors set forth in 18 U.S.C. § 3553(a), and as more fully set forth on the record, finds that the Defendant violated the conditions in Violation No. 3 of the Supplemental Petition, and recommends that Defendant's supervised release be revoked, and that Defendant be sentenced to the custody of the Attorney General or his designee for a period of fifteen (15) 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 Magistrate Judge further recommends Defendant's placement at USP Marion, Illinois.

The parties are hereby notified that the District Judge may reconsider any matter assigned to a Magistrate Judge. The parties, on the record, waived the fourteen-day period to object to the Report and Recommendation.

Dated: 18 MAR 2020



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

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