

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
TERRE HAUTE DIVISION

UNITED STATES OF AMERICA,

Plaintiff

vs.

Case No. 2:06-cr-00017-LJM-CMM

TODD M. JONES,

Defendant

REPORT TO DISTRICT JUDGE—
PROPOSED FINDINGS OF FACT AND
CONCLUSION OF LAW

A hearing was convened in this matter on October 7, 2014, on a Petition for Warrant or Summons for Offender Under Supervision filed April 14, 2014 [Doc. 4]. A warrant was issued and the Court set this matter for an initial appearance. This matter was referred to the Magistrate Judge for hearing pursuant to 18 U.S.C. 3401(i) in an Entry and Order issued by The Hon. Larry J. McKinney, Senior U. S. District Judge, on April 11, 2014 [Doc. 7]. The defendant waived his right to preliminary hearing in writing. [Doc. 10] The October 7 hearing constituted a hearing on the defendant's alleged violations of the terms and conditions of his sentence while on supervised release.

The Government appeared by Todd Shellenbarger, Assistant United States Attorney; the defendant, Todd M. Jones, appeared in person (in custody) and by counsel, Joe Cleary.

The Government and defense counsel advised the Court that the parties had reached an agreement on admission of certain violations and a proposed disposition. The Court advised the

defendant of his constitutional rights and the burden of proof with respect to the alleged violations. The defendant answered preliminary questions to ascertain his ability to understand the proceedings. The defendant was provided a copy of the Petition and waived his right to a preliminary hearing.

The parties then proposed a resolution of the matter by which the Defendant admitted violations 3 and 4 set forth in the Petition and revocation of supervised release. Specifically, the parties stipulated that the Defendant should serve one year and one day in the custody of the Bureau of Prisons followed by one year of supervised release under the same terms and conditions previously imposed. Defendant will be credited for time served since August 25, 2014, the expiration of his sentence on a state court conviction.

The Court finds that the defendant, after being placed under oath, made a knowing, intelligent and voluntary admission of violations 3 and 4 outlined in the Petition with the advice of counsel. Violations 1 and 2 will be deemed dismissed upon acceptance of this recommendation in this report.

The undersigned recommends to the Court adoption of the following Findings of Fact and Conclusions of Law:

Findings of Fact

1. The defendant, Todd M. Jones, was sentenced on July 27, 2007, in the U. S. District Court for the Southern District of Indiana on a charge of Felon in Possession of a Firearm. The original sentence included 84 months confinement and two years of supervised release. Supervised release commenced on August 9, 2012.

2. While on supervised release, the defendant violated the terms of supervised release as follows:

a. Violated the term/condition that he not commit another federal, state or local crime (specifically, he was convicted of driving while suspended and a felony charge of receiving stolen property).

3. The defendant was under supervision of the U.S. Probation Office in the Southern District of Indiana on April 14, 2014, the date on which the Petition was filed.

4. The defendant admitted these allegations in open court, under oath, and after the advice of counsel.

5. Jones' actions violated the terms of supervised release from the original sentence.

Conclusions of Law

1. The Court finds by a preponderance of the evidence that the defendant violated the terms of supervised release on and after his release from the Bureau of Prisons and while under supervision of the U. S. Probation Office.

2. The violations noted in the Findings of Fact constitute either Grade B or Grade C violations under §7B1.1(b), *United States Sentencing Guidelines* (Chapter 7, Violations of Probation and Supervised Release).

3. The defendant's criminal history under §7B1.4(a) is Category V.

4. The sentencing options for this defendant include a range of imprisonment of at least 18 months but not more than 24 months based upon these findings and conclusions. *See*, §7B1.4(a).

5. Based upon these findings and conclusions, the Magistrate Judge recommends that the defendant be sentenced to a term of one year and one day in the custody of the U.S. Bureau of Prisons. The Magistrate Judge further recommends that supervised release be extended for a period of one year after the defendant's release. This recommendation is

consistent with the agreement of the Government and the defendant—an agreement the Magistrate Judge recommends be accepted and incorporated in the disposition of this matter.

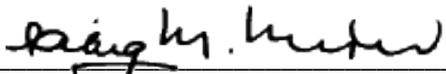
6. In reaching these conclusions, the Court has considered the factors set forth in 18 U.S.C. 3553(a)(1) [nature and circumstances of the offense and the history and characteristics of the defendant, here, the multiple violations of the terms of supervised release], (a)(2)(B) [affording adequate deterrence to criminal conduct, here, consideration of the defendant's multiple violations and disregard of reasonable rules of supervised release], (a)(2)(c) [to protect the public from further crimes of the defendant], (a)(2)(D) [not applicable], (a)(4), (a)(5) [not applicable here], (a)(6) [the need to avoid unwarranted sentence disparities among defendants with similar records], and (a)(7) [not applicable here].

Recommendation

The undersigned recommends to the Court adoption of these Findings of Fact and Conclusions of Law and the revocation of the defendant's supervised release and the imposition of term of incarceration of one year and one day followed by supervised release for a period of one year.

The defendant is ORDERED detained pending the District Court's consideration of this recommendation.

Dated: 10 October 2014


CRAIG M. MCKEE, Magistrate Judge
United States District Court
Southern District of Indiana

Distribution to:

Todd Shellenbarger, U.S. Attorney's Office
Joe Cleary
Robert J. DeCarli, U.S. Probation Office
Greg Snyder, U. S. Marshal's Office