

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.) Case No. 4:13-cr-25-SEB-MGN-1
)
 NICHOLAS J. PARSCH (01),)
)
 Defendant.)

**MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION**

This matter is before the Honorable William G. Hussmann, Jr., United States Magistrate Judge, on the Entry and Order referring the United States Probation Office's Petition for Warrant or Summons for Offender Under Supervision filed on November 20, 2014. (Dkt. 48.) The Magistrate appointed Jennifer Culotta as counsel for Defendant and conducted a final hearing on the revocation on February 27, 2015. (Dkts. 55, 56.)¹

The Magistrate now finds as follows:

1. Defendant is 24 years old, has completed some college, and has the ability to read and write.
2. Defendant has read and understood the USPO's Petitions dated November 19 and 25, 2014.²

¹ By agreement of the parties, the final hearing was conducted on this date in lieu of April 13, 2015, as previously scheduled.

² Defendant consented to having the Petition filed November 25, 2014, consolidated with the Petition filed November 19, 2014.

3. The Magistrate reviewed the allegations with the Defendant during the final revocation hearing on February 27, 2015.

4. The parties stipulated that each of the Petitions currently before the Court would be considered proffers of the Pretrial Services Officer's testimony and would be considered as testimonial evidence on behalf of the United States.

5. Plaintiff, under oath, admitted the allegations set out in the Petitions. Specifically, he admitted that he did not promptly and timely register as a sex offender with the Lawrence County Sheriff's Department despite instructions from the Probation Office to do so. In addition, Defendant specifically admitted that the urine sample referenced in the November 25th Petition tested positive for marijuana.

6. The Magistrate concludes that the violations of the conditions on the record in this case were knowingly and voluntarily admitted by Defendant. These admissions were made without any coercion or without any other promises except for an agreement to recommend service of the sentence at the Volunteers of America facility.

7. With respect to the appropriateness of the sentence, the parties, including the United States, agree that a sentence of fifty-eight (58) additional days of residence at the Volunteers of America facility from the date he comes into the custody of the Bureau of Prisons is an appropriate sentence.

8. The Magistrate agrees that a 58-day sentence is appropriate, for the following reasons:

- (a) Defendant has now appropriately registered as a sex offender;

- (b) Defendant has successfully completed his pretrial detention to date at the Volunteers of America, with one exception which has not caused the Volunteers of America facility to request that he leave; and
- (c) Defendant has obtained a job starting approximately March 1, 2015.

Recommendation

The Magistrate Judge, therefore, **RECOMMENDS** that District Judge Barker enter judgment in accordance with the attached Proposed Judgment Entry.

SO RECOMMENDED the 5th day of March, 2015.



WILLIAM G. HUSSMANN, JR.
Magistrate Judge

Copies:

Jennifer Culotta
U.S. Probation
U.S. Attorney
U.S. Marshal