

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,)
v.)
DONNELL A. WAHL,)
Defendant.)
_____)

Criminal Case No. 00-226-001 (CKK)(AK)

FILED

JUL 26 2013

Clerk, U.S. District & Bankruptcy
Courts for the District of Columbia

REPORT AND RECOMMENDATION

This matter was referred to a United States Magistrate Judge by the Honorable Colleen Kollar-Kotelly for a Hearing on Violation of Defendant's supervised release and a Report and Recommendation.

Background

Defendant Donnell A. Wahl was charged with Count 1- Unlawful Possession with Intent to Distribute 5 Grams or More of Cocaine Base; Count 2 – Using, Carrying and Possessing a Firearm During a Drug Trafficking Offense; and Count 3- Unlawful Possession of a Firearm and Ammunition by a Convicted Felon. On May 23, 2001, Defendant was sentenced to a period of sixty- three (63) months imprisonment on Counts 1 and 3, to be served concurrently and sixty months imprisonment on Count 2 to be served consecutively to Counts 1 and 3; sixty (60) months supervised release on Count 1 and thirty-six (36) months supervised release on Counts 2 and 3. In addition to the \$300.00 special assessment, the trial court imposed the following special conditions:

- firearm, explosive device or other dangerous weapons restrictions,
- illegal drugs and location restrictions,
- drug testing and treatment, and
- mental health treatment.

(N)

On March 5, 2008, the trial court amended the Defendant's sentence to provide sixty (60) months imprisonment on Counts 1 and 3, to be served concurrently and consecutively to Count 2. The supervised term and special conditions imposed on May 23, 2001 remained in effect. The Defendant's supervision began on January 2, 2009, and is scheduled to expire on January 1, 2014. The supervised release term on Counts 2 and 3 expired on January 1, 2012.

By Memorandum to the trial court dated May 9, 2013, the Probation Officer noted that the Defendant tested positive for the use of marijuana on March 10, April 15, April 21, May 6, 2011; and tested positive on October 3, November 15, December 12, 2012; and also tested positive on March 4, 2013.

The Probation Officer further noted that Mr. Wahl currently lives with his girlfriend in Lanham, Maryland. On March 7, 2013, Defendant secured employment as a laborer and he has a second job working in the Guest Services Division with Capitol Host. Mr. Wahl continues to report directly and submit his monthly reports in a timely manner and according to the Probation Office national and local record check, there have been no rearrests.

With respect to Mr. Wahl's substance abuse problem, the Probation Officer noted that Mr. Wahl submitted a urinalysis with his individual therapist on October 2, 2012, which was positive for marijuana. Following that positive test, there was a conference with the supervising Probation Officer and Mr. Wahl admitted to using marijuana and took responsibility for making his decision. He indicated that he was having a difficult time because of his unemployment and his treatment plan was continued with individual therapy.

On November 15, 2012, Mr. Wahl again submitted a urinalysis test in the Probation Office which returned positive for marijuana. On December 12, 2012, he was contacted to address the positive test result and Mr. Wahl denied any additional drug use since testing positive

in October, 2012. He provided a urinalysis test on December 12, 2012, and it also returned positive for use of marijuana. Mr. Wahl's course of treatment was modified as he was directed to report to the Men's Group in the Probation Office to help deal with his stress. On March 4, 2013, Mr. Wahl commenced out-patient treatment at the Renaissance Treatment Center and he submitted a urinalysis which tested positive for marijuana on that date. On March 22, 2013, Mr. Wahl was contacted to address the positive urinalysis and he requested placement in individual therapy at the Renaissance Treatment Center ("RNC"). A referral to individual therapy to assist him with his coping skills and stress management was made. His progress with individual therapy is unknown at this time due to his recent placement into services. To his credit, according to the Probation Office, Mr. Wahl submitted urinalysis tests at the RTC on March 16, March 20, and March 25, 2013, and all were negative for illicit substances.

Hearing on Violation of Supervised Release

A hearing on the Defendant's alleged violations of his supervised release was held by the undersigned on July 23, 2013. At the hearing, the Defendant was represented by counsel and did not dispute the allegations contained in the Memorandum to the trial court dated May 9, 2013. The Probation Officer stated on the record that Mr. Wahl had numerous urinalysis tests that were positive for marijuana from 2011 through March, 2013. He reiterated that since the positive test of March 4, 2013, Mr. Wahl has tested regularly with negative results. The Probation Officer further noted that Mr. Wahl has been employed since March and he is in a stable relationship. In light of Mr. Wahl's compliance since March, 2013, the Probation Officer is of the opinion that Mr. Wahl be permitted to remain on supervised release which is scheduled to terminate on January 1, 2014. He further recommended that because of the positive tests, some sanction should be imposed on Mr. Wahl, specifically that the Court should modify the conditions of his

supervision to provide for twenty (20) hours of community service at the direction of the Probation Officer.

The Government concurred with the recommendation of the Probation Officer and the Defendant, through counsel, also accepted the proposed modification of his supervised release to include twenty hours of community service.

Recommendation

The undersigned recommends that the recommendation of the Probation Officer, concurred by both the Government and the Defendant, be adopted and accepted by the trial court.

The undersigned directed the Probation Officer to notify the Court if Mr. Wahl tests positive for any illicit substances. The undersigned also set a status hearing for November 4, 2013, at 10:00 a.m. In the event that Mr. Wahl incurs no further violations, it is recommended that his supervision should terminate on the scheduled date.

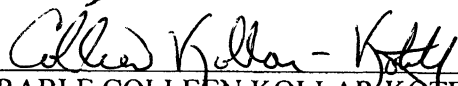
Dated: July 26, 2013



ALAN KAY
UNITED STATES MAGISTRATE JUDGE

SEEN AND APPROVED:

DATED: July 26, 2013



HONORABLE COLLEEN KOLLAR-KOTELLY
UNITED STATES DISTRICT COURT JUDGE