

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

**FILED**

OCT 16 2008

NANCY MAYER WHITTINGTON, CLERK  
U.S. DISTRICT COURT

UNITED STATES OF AMERICA

v.

MICHAEL D. HUTCHINSON,

Defendant.

Criminal No. 03-489 (JDB)

**ORDER**

Before the Court is the report and recommendation of Magistrate Judge Facciola dated September 15, 2008, addressing alleged violations of supervised release by defendant. Defendant concedes that he has violated his supervised release by failing to appear for drug testing and mental health treatment at the Family Health Center. The Magistrate Judge recommends modifying the conditions of supervised release to require defendant to spend 30 days of his term of supervised release in home confinement with permission to travel for childcare purposes and work and, at the end of the 30-day period, terminating supervised release as unsuccessful. Neither defendant nor the government has filed an objection to the report and recommendation, although the government and the U.S. Probation Office initially requested the unfavorable termination of supervised release, without any further sanction, because of defendant's ongoing resistance to continued supervised release based on employment and family obligations and an otherwise good history of compliance.

The Court agrees that termination of supervised release alone simply to avoid the "contest of wills" created by defendant's continued refusal to comply with reporting conditions is not appropriate because it rewards defendant's violation, and further agrees that 30 days of home

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confinement is an appropriate sanction. See Report and Recommendation at 2. Therefore, the Court will adopt the Magistrate Judge's recommendation that defendant serve 30 days in home confinement (i.e., electronic monitoring or location monitoring) followed by unfavorable termination of supervised release.

Upon consideration of the report and recommendation, the absence of objections by defendant and the government, and the entire record herein, it is hereby

**ORDERED** that the report and recommendation is adopted by the Court; it is further

**ORDERED** that defendant's conditions of supervised release are hereby modified to include a period of 30 days in home confinement. During this time, the following conditions of location monitoring shall apply to defendant:

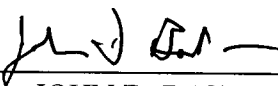
Defendant shall remain at his place of residence, except for employment, travel to and from childcare, and other activities approved in advance by the probation officer. Defendant shall permit a probation officer to contact his employer while participating in the location monitoring program. Defendant shall maintain a telephone at his place of residence without any special features, modems, answering machines, or cordless telephones during the term of location monitoring. Defendant shall wear an electronic device and shall observe the rules specified by the probation office. Defendant shall not leave this judicial district during the term of location monitoring without prior approval by the probation office.

Defendant shall be enrolled in location monitoring by not later than November 14, 2008. It is further

**ORDERED** that the costs of location monitoring shall be waived. It is further

**ORDERED** that, at the conclusion of home confinement, the U.S. Probation Office shall terminate defendant's supervised release as unsuccessful.

**SO ORDERED.**

  
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JOHN D. BATES  
United States District Judge

Date: October 15, 2008

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