

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,

v.

TONYA R. SYKES,
Defendant.

CR. No. 07-00195 (TFH)(AK)

FILED

SEP 10 2009

REPORT AND RECOMMENDATION

NANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT

This matter was referred to a United States Magistrate Judge by the Honorable Thomas F. Hogan for a Hearing on Violation of Probation and a Report and Recommendation.

Background

The Defendant, Tonya Sykes, was sentenced on July 2, 2008, to a period of 48 months probation, following her plea of guilty to Wire Fraud in violation of 18 U.S.C. §1343. The trial court also imposed certain special conditions. Defendant's supervision began on July 2, 2008, and is scheduled to terminate on July 1, 2012. Ms Sykes, while on supervision, moved for permission to travel out of the United States to Aruba.. According to the Memorandum to the trial court dated July 24, 2009, the trial court denied Defendant's motion on June 24, 2009. On July 3, 2009, Ms Sykes traveled to Aruba without permission of the Probation Office or the trial court. She returned to the United States on July 7, 2009. Her travel outside the United States was verified through the United States Customs Department.

On July 16, 2009, Ms Sykes reported to her Supervising Probation Officer and when confronted with the fact that she had left the country without permission, she acknowledged traveling to Aruba without consent is a violation of a standard condition of her probation.

Hearing on Violation

A hearing on the alleged violation of the conditions of Ms Sykes' probation was held before the undersigned on August 12, 2009. At the hearing the Defendant was represented by counsel. At the hearing the Probation Officer proffered that Ms Sykes had left the country without obtaining permission. Ms Sykes, through counsel, admitted that she had left the country without consent but proffered the reason that her grandmother was in Aruba and had become ill.

Recommendation

In light of the Defendant's acknowledgment that she violated the conditions of her probation, the undersigned found by a preponderance of the evidence that Ms Sykes is in violation of the conditions of her probation.

The Probation Officer noted, in his Memorandum dated July 24, 2009, that other than Defendant going to Aruba without permission her adjustment while on supervision has been good. The Probation Officer indicated that, on July 18, 2008, the Defendant resigned from her position with SAIC as a financial accountant because of the court-ordered employment restriction on handling financial records. Ms Sykes reports to her Probation Officer as directed and she has acquired no further arrests. She is current with her restitution payment schedule, and the DNA, community service, and special assessment requirements are satisfied.

The Probation Office recommends that Ms Sykes be sanctioned for her violation by modifying the conditions of her probation with 15 days placement in a Community Correction Center. The Government concurs in that recommendation and no objection was noted by the Defendant.

The undersigned concurs in the recommendation of the Probation Office. Defendant acknowledges her violation but alleges that she was worried that her grandmother might die

while visiting in Aruba and that caused Defendant to violate the conditions of probation. Under those circumstances this Court believes the recommended sanction reflects the punishment befitting the violation. In all other respects the Defendant appears to be in compliance with the conditions of her probation.

Options Available to the Trial Court

The violation is a Grade C violation, and with a Criminal History Category of I, the recommended Sentencing Guideline range is 3 to 9 months. USSG §7B1.4(a). Upon a finding of a Grade C violation, the Court may revoke probation; or extend the term of probation *and/or modify the conditions of supervision*. USSG §7B1.3(a)(2).


ALAN KAY
UNITED STATES MAGISTRATE JUDGE

Failure to file timely objections to the findings and recommendations set forth in this report may waive your right of appeal from an order of the District Court adopting such findings and recommendations. *See Thomas v. Arn*, 474 U.S. 140 (1985).

The Magistrate Judge having recommended that the conditions of Defendant's probation be modified and there being no objection thereto, IT IS ORDERED that the recommendation of the Magistrate Judge is accepted.

DATED: Sept. 9, 2009 
UNITED STATES DISTRICT COURT JUDGE