

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,)
v.)
FRANKIE R. KENNEDY,)
Defendant.)
_____)

Criminal Case No. 10-00257-01 (CKK)(AK)

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 Frankie Kennedy was sentenced on February 3, 2011 to 5 months imprisonment to be followed by 36 months supervised release on a charge of Interstate Transportation of Stolen or Fraudulently Obtained Property, Causing an Act to be Done, in violation of 18 U.S.C. §§2314 and 2. The trial court imposed a special assessment of \$100 and the following special conditions:

- location monitoring
- DNA collection
- financial disclosure
- employment restriction
- restitution in the amount of \$86,286.51
- payment of restitution at a rate of no less than \$100 per month.

Defendant's supervision began on August 26, 2011 and is scheduled to terminate on August 25, 2014. By Memorandum to the trial court dated January 9, 2014, the Probation Officer noted that Ms. Kennedy had violated the conditions of her supervised release, namely that she was having trouble with transfer of supervision to the District of Maryland as a result of

her move into the state of Maryland and other technical matters such as failing to report to her Probation Officer. According to the docket, no action was taken with respect to those technical violations.

By Memorandum to the trial court and the undersigned dated March 25, 2014, the Probation Officer updated Ms. Kennedy's adjustment and financial situation for consideration at her hearing scheduled for April 2, 2014. Ms. Kennedy's residence has changed again since the January 9, 2014 Memorandum. She currently resides with her mother in the District of Columbia while her husband and children are split between other family members and friends. The recent move resulted from an altercation between Ms. Kennedy and her sister. Ms. Kennedy maintains contact with the Probation Officer and reports as directed.

The Probation Officer notes that the case is approaching expiration with an outstanding balance of \$81,965.83. Ms. Kennedy has paid a total of \$4,320.68 toward this obligation but because of financial difficulties, she has been unable to satisfy this debt. A financial investigation was completed on March 25, 2014, and it was determined that Ms. Kennedy has a negative monthly cash flow of approximately \$700. With the fact that her husband is currently unemployed and her family is displaced, Ms. Kennedy does not have the ability to maintain the current payment schedule of \$100 per month. However, Ms. Kennedy reports that she can maintain a payment schedule of \$10 per month and reports her awareness that the payments would continue beyond the expiration of her supervised release.

The Financial Litigation Unit of the U.S. Attorney's Office has been notified of the outstanding balance and will determine appropriate actions for collection following expiration of Defendant's supervised release. Pursuant to 18 U.S.C. §§3613(a) and 3613(f), the United States may enforce a judgment imposing a fine or restitution in accordance with the practices and

procedures for enforcement of a civil judgment. Pursuant to 18 U.S.C. §3613(b), the liability to pay a fine or restitution terminates 20 years from the entry of judgment or 20 years after the defendant's release from imprisonment. In addition to the government's enforcement options, civil enforcement by the victim is provided by 18 U.S.C. §3664(i), with no time limit expressed.

Hearing on Violation

A hearing on the alleged violations of Defendant's supervised release was held by the undersigned on April 2, 2014. Ms. Kennedy was represented by Counsel. The Probation Officer testified that Defendant had failed to pay the amount of restitution and that Defendant's family has been separated and her husband is unemployed. The Probation Officer also noted that Ms. Kennedy was otherwise compliant with the terms and conditions of her supervision. The Probation Officer further recommended that the conditions of Defendant's supervision should be modified to permit Ms. Kennedy to pay \$10 per month and that her supervised release should be permitted to expire on August 25, 2014. The Government concurred in the recommendation of the Probation Officer. The Defendant also concurred in this recommendation.

Recommendation

Under the above circumstances, the undersigned concurs with the Probation Officer's recommendation and that the Probation Officer should have the discretion to modify the amount of monthly payments that the Defendant has to pay towards her restitution.

Dated: April 14, 2014

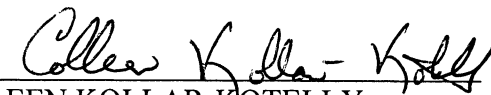


ALAN KAY
UNITED STATES MAGISTRATE JUDGE

If the Trial Court concurs with this Report and Recommendation, the Trial Court may sign below.

Dated:

April 22, 2014



COLLEEN KOLLAR-KOTELLY
UNITED STATES DISTRICT JUDGE