UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
TERRE HAUTE DIVISION

UNITED STATES OF AMERICA,	)	
Plaintiff,	)	
	)	2:10-cr-00007-JMS-CMM
vs.	)	
	)	
JWUAN MORELAND (7),	)	
Defendant.	)	

REPORT AND RECOMMENDATION

On September 4, 2019, a final hearing was conducted on the Petition for Warrant or Summons for Offender Under Supervision, filed on April 18, 2019 [dkt 1687]. A supplemental petition was filed on April 29, 2019 [dkt 1694]. Jwuan Moreland ("Defendant") appeared in person with FCD counsel, Michael Donahoe. The government appeared by Bradley Blackington, Assistant United States Attorney. U.S. Probation appeared by Officer Troy Adamson.

The Government moved to dismiss the supplemental petition filed on April 29, 2019. The Court GRANTS the motion and directs the Clerk to terminate the supplemental petition on the docket [dkt 1694]. The parties advised they were ready to proceed on a final hearing on the original petition.

The Court conducted the following procedures in accordance with Fed. R. Crim. P. 32.1(a)(1) and 18 U.S.C. §3583:

The Court summarized the allegations of the initial petition [dkt 1687] and referenced the initial hearing in this matter on May 13, 2019, when defendant was advised of his rights, the nature of the allegations, and provided him with a copy of the petition.

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A final hearing was then conducted, and witnesses were sworn and testified as to the alleged violations. Witnesses: Senior Probation Officer Troy Adamson, Angel Baker, and Jwuan Moreland. The Government and the defendant each argued their positions prior to the Court announcing its judgment.

The undersigned recommends to the Court adoption of the following Findings of Fact and Conclusions of Law:

Findings of Fact

1. The defendant, Jwuan Moreland, was sentenced on June 24, 2011, in the U. S. District Court for the Southern District of Indiana, Terre Haute Division, on the charge of felon in possession of a firearm. The original sentence included 110 months of confinement and 36 months of supervised release.

2. The Government alleged the defendant failed to comply with the terms of supervised release as follows:

Violation Number	Nature of Noncompliance
1.	"The defendant shall not commit another federal, state or local crime."
	On April 16, 2019, Mr. Moreland was arrested by the Lawrence Police Department following a U.S. Probation search of his vehicle. He is charged in Marion County, Indiana, with possession of marijuana and methamphetamine under cause number 49G25-1904-F6-014714.He is currently in custody in the Marion County Jail.
	On April 16, 2019, U.S. Probation Officers and Lawrence Police initiated a search of Mr. Moreland's residence and vehicle. During the course of the search, officers located a large Ziploc bag inside the center console of his truck. Inside the bag were two white pill bottles, one containing two small baggies of a white crystal substance, and the other a green leafy substance. The white crystal substance field tested positive for amphetamine when tested by Lawrence Police. The green leafy substance field tested positive for marijuana. The offender admitted to the probation officer the methamphetamine and marijuana found in the truck were his, and he had been using both substances. Additionally, $965.00 was located inside Mr. Moreland's wallet.

2. "The defendant shall refrain from any unlawful use of a controlled substance."

On April 16, 2019, marijuana and methamphetamine were found in the offender's truck during a search. He admitted he recently used both substances.

As previously reported to the Court, Mr. Moreland tested positive for methamphetamine on April 30, June 12, 26, and July 2, 2018.

3. The defendant was under supervision of the U.S. Probation Office in the Southern District of Indiana on April 16, 2019, and all other dates referenced in the petition.

4. After the presentation of the evidence and the arguments of counsel, the Court finds that the Government proved by a preponderance of the evidence that the defendant is guilty of the violations charged in the petition.

Conclusions of Law

1. The Court finds by a preponderance of the evidence that the defendant violated the terms of supervised release after his release from the Bureau of Prisons and while under supervision of the U. S. Probation Office.

2. The violation noted in the Findings of Fact is a Grade **B** violation under §7B1.1(b), *United States Sentencing Guidelines* (Chapter 7, Violations of Probation and Supervised Release).

3. The defendant's criminal history under §7B1.4(a) is Category **VI.**

4. The sentencing options for this defendant include a statutory maximum range of 21 to 24 months based upon these findings and conclusions. *See*, §7B1.4(a).

5. Based upon these findings and conclusions, the Magistrate Judge recommends that the defendant be sentenced to a term of **twenty-one (21) months** in the custody of the U.S. Bureau of Prisons. The Magistrate Judge further recommends that the defendant not be placed on supervised release thereafter.

6. In reaching these conclusions, the Magistrate Judge has considered the factors set forth in 18 U.S.C. 3553(a)(1) [nature and circumstances of the offense and the history and characteristics of the defendant, here, the violations of the terms of supervised release, possession of illegal substances, and evidence of illegal substance abuse while on supervised release in 2018], (a)(2)(B) [affording adequate deterrence to criminal conduct, here, consideration of the defendant's multiple violations and disregard of reasonable rules of supervised release], (a)(2)(c) [to protect the public from further crimes of the defendant], (a)(2)(D) [not applicable here], (a)(4), (a)(5) [not applicable here], (a)(6) [the need to avoid unwarranted sentence disparities among defendants with similar records—the recommended sentence is at the low threshold of the range], and (a)(7) [not applicable here].

Recommendation

The undersigned recommends to the Court adoption of these Findings of Fact and Conclusions of Law and the revocation of the defendant's supervised release and the imposition of term of incarceration of twenty-one (21) months without supervised release at the conclusion of the sentence.

The parties are hereby notified that the District Judge may reconsider any matter assigned to a Magistrate Judge. The parties have a 14-day right to appeal this recommendation on the record.

The defendant is ORDERED detained pending the District Court's consideration of this recommendation.

Dated: September 4, 2019

CRAIG M. McKEE, Magistrate Judge
United States District Court
Southern District of Indiana

Distribution to:
Counsel of Record
USPO