

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
NORTHERN DIVISION
AT COVINGTON**

CRIMINAL NO. 04-37-DLB

UNITED STATES OF AMERICA

PLAINTIFF

VS.

ANDRE THOMAS

DEFENDANT

REPORT AND RECOMMENDATION

On January 27, 2012 this matter came on for an evidentiary hearing on petition of the United States Probation Office that the defendant, ANDRE THOMAS, show cause why his supervised release should not be revoked. The defendant was present in Court and represented by Tim Schneider and the United States was present through Assistant United States Attorney Laura Voorhees. The proceedings were recorded by official court reporter Joan Averdick and conducted pursuant to 18 U.S.C. § 3401(I). Oral argument was presented by counsel and the defendant admitted violating the terms of his supervised release as set out in the August 12, 2011 original violation report and the January 27, 2012 addendum to that report.

The defendant was sentenced on November 1, 2004 for multiple offenses as follows: 1) twenty-four months imprisonment for Possession With Intent to Distribute Crack Cocaine (Count Two); 2) sixty months imprisonment for Carrying a Firearm During and in Relation to a Drug Trafficking Offense (Count Three) consecutive for a total term of 84 months incarceration. Thomas was also sentenced to concurrent three year terms of supervised release and in addition to the standard conditions of release, he was ordered to comply with the following special conditions:

participation in mental health and substance abuse treatment programming, alcohol abstinence, participation in an education program working towards the completion of his GED, and to submit his person, residence, curtilage, office or vehicle to search at the direction and discretion of the probation office. The Court imposed a \$200.00 special assessment which was satisfied on December 11, 2006. Defendant's term of supervision began on May 13, 2010 and he now stands charged with the following violation:

VIOLATION #1: THE DEFENDANT SHALL NOT COMMIT ANOTHER FEDERAL, STATE, OR LOCAL CRIME.

Thomas was arrested by the Lexington Police Department for Robbery 1st Degree on June 22, 2011. According to a Lexington Police detective Thomas admitted to the robbery which took place on October 8, 2010 but denied use of a firearm. According to the addendum, Thomas pled guilty to Robbery 2nd Degree and was sentenced on November 29, 2011 to eight years imprisonment with 163 days credit time, court costs of \$155.00 and for his charges to run concurrent with this federal case.

The parties have reached an agreement as to the appropriate disposition of this case, and the Court being satisfied from dialogue with the defendant that he understands the nature of the charges pending against him, has had ample opportunity to consult with counsel, and enters this agreement knowingly and voluntarily, accordingly;

IT IS RECOMMENDED:

1. That the defendant be found to have violated the terms of his supervised release as set out above, and that his supervised release be REVOKED;
2. That the defendant, ANDRE THOMAS, be sentenced to the custody of the Attorney General for a period of **THIRTY (30) MONTHS** with no supervised release to

follow, and that the sentence be served at FCI Ashland if available.

Particularized objections to this Report and Recommendation must be filed within fourteen (14) days of the date of service of the same or further appeal is waived. Thomas v. Arn, 728 F.2d 813 (6th Cir. 1984), aff'd, 474 U.S. 140 (1985); Wright v. Holbrook, 794 F.2d 1152, 1154-55) (6th Cir. 1986). **If the defendant wishes to address the District Court prior to sentencing, the defendant must so notify the Court in writing within fourteen (14) days.** A party may file a response to another party's objections within fourteen (14) days after being served with a copy thereof. Rule 72(b), Fed.R.Civ.P.

This 27th day of January, 2012.



Signed By:

J. Gregory Wehrman

A handwritten signature in black ink that reads "J. G. W." in a cursive style.

United States Magistrate Judge