

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Cause No. 1:15-cr-0152-SEB-TAB
)	
,)	
DAMON SMITH,)	
Defendant.)	

- 04

REPORT AND RECOMMENDATION

On April 30, 2021 and November 16, 2022, the Court held a hearing on the Petition for Warrant or Summons for Offender Under Supervision filed on August 5, 2020. Defendant appeared in person with his retained counsel John Tompkins. The government appeared by Michelle Brady, Assistant United States Attorney. U. S. Parole and Probation appeared by Officer Timothy Hardy and Brian Bowers.

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

1. The Court advised Defendant Smtih of his rights and provided him with a copy of the petition. Defendant Smith orally waived his right to a preliminary hearing.
2. After being placed under oath, Defendant Smith admitted violation numbers 1, and 2. [Docket No. 409.]
3. The allegations to which Defendant admitted, as fully set forth in the petition, are:

**Violation
Number**

Nature of Noncompliance

- 1 **“You must not commit another federal, state, or local crime.”**

On August 3, 2020, Damon Smith was arrested and charged with Serious Violent Felon in Possession of a Firearm, in Marion County Superior Court, under cause number 49G04-2008-MC-024182. According to the Probable Cause Affidavit, the Indianapolis Metropolitan Police Department and FBI executed a narcotics and firearm search warrant at 1301 Racquet Club N. Drive, Apt B, Indianapolis. Located in the residence were Damon Smith and Shawnae Knights. During the search, officers located a few grams of marijuana in a dresser drawer. In a purse on the floor of the master bedroom was a Taurus Millennium G2 (serial number TJY87451) firearm. A Smith and Wesson SD40 VE firearm (serial number FZP1394) was located on the bed in the master bedroom. Damon Smith was arrested and transported to the Marion County Jail. All evidence seized was processed and transported to the FBI property room.

- 2 **“You shall not own, possess, or have access to a firearm, ammunition, destructive device or dangerous weapon.”**

On August 3, 2020, Damon Smith was arrested and charged with Serious Violent Felon in Possession of a Firearm, in Marion County Superior Court, under cause number 49G04-2008-MC-024182. According to the Probable Cause Affidavit, the Indianapolis Metropolitan Police Department and FBI executed a narcotics and firearm search warrant at 1301 Racquet Club N. Drive, Apt B, Indianapolis. Located in the residence were Damon Smith and Shawnae Knights. During the search, officers located a purse on the floor of the master bedroom containing a Taurus Millennium G2 (serial number TJY87451) firearm. A Smith and Wesson SD40 VE firearm (serial number FZP1394) was located on the bed in the master bedroom.

4. The parties stipulated that:
- (a) The highest grade of violation is a Grade B violation.
 - (b) Defendant’s criminal history category is II.
 - (c) The range of imprisonment applicable upon revocation of supervised release, therefore, is 6 to 12 months’ imprisonment.

5. The parties jointly recommended a sentence of 9 months to be served consecutively to the sentence received under 1:21-cr-0192-JRS-DLP-1 with no supervised release to follow.

The Magistrate Judge, having considered the factors in 18 U.S.C. § 3553(a), and as more fully set forth on the record, finds that the Defendant violated the conditions in the petition, that his supervised release should be revoked, and that he should be sentenced to the custody of the Attorney General or his designee for a period of 9 months to be served consecutively to the sentence received under 1:21-cr-0192-JRS-DLP-1 with no supervised release to follow. The Defendant is to be taken into custody immediately pending the District Judge's action on this Report and Recommendation.

The parties are hereby notified that the District Judge may reconsider any matter assigned to a Magistrate Judge. The parties waived the fourteen-day period to object to the Report and Recommendation.

Date: 11/16/2022



VAN WILLIS
United States Magistrate Judge
Southern District of Indiana

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