

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION

UNITED STATES OF AMERICA)
)
v.) Case No. 4:14-CR-00077-BSM
)
RODNEY MARQUIS CRISWELL)

**UNITED STATES’ RESPONSE TO DEFENDANT’S MOTION FOR EARLY
TERMINATION OF SUPERVISED RELEASE**

The United States of America, by and through Jonathan D. Ross, United States Attorney for the Eastern District of Arkansas, and Erin O’Leary, Assistant United States Attorney, for its response to Defendant Rodney Marquis Criswell’s motion for early termination of supervised release states as follows.

Criswell seeks termination of supervised release after serving only a portion of the four-year period imposed by the Court. He has failed to demonstrate that he would be unduly harmed in any manner by serving the full sentence imposed by the Court. The sentence of supervised release imposed by this Court is necessary and appropriate, and this sentence should not be altered. The motion should be denied.

I. Background

On February 8, 2013, the Pulaski County Sheriff’s Office (PCSO) conducted a controlled buy of methamphetamine from Criswell using a confidential source (CS). (PSR ¶ 4). The CS contacted Criswell by telephone and arranged the purchase of four ounces of methamphetamine from Criswell. (PSR ¶ 4). Criswell instructed the CS to meet him at a Walmart in Little Rock. (PSR ¶ 4). Officers subsequently arrested Criswell in the Walmart parking lot after his vehicle was identified by the CS. (PSR ¶ 4). A search of Criswell and his vehicle yielded two clear bags

containing suspected methamphetamine (confirmed to be 55.7 grams of methamphetamine) and \$1,725 in U.S. Currency. (PSR ¶ 4). During an interview, Criswell stated he believed he was set up by an individual he knew as “T.” (PSR ¶ 4). Criswell related “T” contacted him wanting to purchase four ounces of methamphetamine. (PSR ¶ 4). During the investigation, Criswell was identified as a source of supply for methamphetamine, and he was held responsible for 55.7 grams of methamphetamine and the U.S. currency found in his possession at the time of his arrest. (PSR ¶ 4).

Criswell was charged with two co-defendants in a five-count indictment on April 2, 2014. (Doc. 3). Criswell was charged with Conspiracy to Distribute and Possess with Intent to Distribute Methamphetamine, in violation of 21 U.S.C. § 846 (Count One), and Possession with Intent to Distribute Methamphetamine, in violation of 21 U.S.C. § 841(a)(1) (Count Four). (Doc. 3). On April 13, 2015, he pleaded guilty to Count One pursuant to the terms of a written plea agreement. (Doc. 60).

On December 2, 2015, this Court sentenced Criswell to 84 months’ imprisonment and four years of supervised release. (Doc. 87). According to the Bureau of Prisons, Criswell was released from its custody on February 4, 2022. *See* <https://www.bop.gov/inmateloc/>.

On October 22, 2024, Criswell filed the instant motion, in which he seeks an order from this Court terminating his supervised release prior to the expiration of the four-year period. (Doc. 169). In the motion, Criswell asserts that he has satisfied all terms of his supervision and has had no interaction with law enforcement. (Doc. 169). He also asserts that he has been proactive in his rehabilitation and reducing his risk of recidivism by participating in First Step Act programming, has been employed as a welder since his release, has obtained his CDL license to further his career and enhance his earning potential to support himself and his family, and has improved his

relationship with his daughter. (Doc. 169). Criswell argues that supervised release creates a hardship because he cannot effectively transport long hauls and he cannot attend away games to watch his daughter cheer. (Doc. 169).

II. Argument

The applicable statute, 18 U.S.C. § 3583(e), provides district courts with authority to grant early termination of supervised release if, in the discretion of the Court, such relief is appropriate and in the interests of justice. That section provides that

[t]he court may, after considering the factors set forth in Section 3553(a)(1), (a)(2)(B), (a)(2)(C), (a)(2)(D), (a)(4), (a)(5), (a)(6), and (a)(7) – (1) terminate a term of supervised release and discharge the defendant released at any time after the expiration of one year of supervised release, pursuant to the provisions of the Federal Rules of Criminal Procedure relating to the modification of probation, if it is satisfied that such action is warranted by the conduct of the defendant released and the interest of justice[.]

18 U.S.C. § 3583(e). It is the defendant's burden, "as the party receiving the benefit of early termination, to demonstrate that such a course of action is justified." *United States v. Weber*, 451 F.3d 552, 559 n.9 (9th Cir. 2006). It "logically follows that the burden of ultimate persuasion should rest upon the party attempting to adjust the sentence." *United States v. McDowell*, 888 F.2d 285, 291 (3d Cir. 1989).

The circumstances of this case do not support granting the requested relief. Criswell has an extensive history of possessing and dealing drugs. His criminal history includes four charges for distributing drugs, some of which were reduced to drug possession. (PSR ¶¶ 22, 23, 25, 26). Despite multiple periods of incarceration, including serving a sentence of imprisonment as a result of a narcotics conviction in this Court, Criswell continued drug-trafficking conduct in the instant offense, acting as a source of supply of methamphetamine in a drug conspiracy. (PSR

¶ 4). Criswell has been arrested and released numerous times, only to turn back to the drug trade upon release.

Criswell has a history of non-compliance with the terms of his parole or supervision. From 1998 to 2013, Criswell's parole or supervision was revoked four times. (PSR ¶ 22, 23, 24, 26). Between 2002 and 2006, while on supervision for a Faulkner County cocaine conviction, Criswell was convicted of conspiracy to distribute cocaine in case number 4:06CR00088 in this Court for his role as a source of supply in a drug conspiracy. (PSR ¶ 25, 26). He was released to supervision in this Court on March 9, 2012, and committed the instant offense less than one year later. (PSR ¶ 4, 26).

“The congressional policy in providing for a term of supervised release after incarceration is to improve the odds of a successful transition from the prison to liberty.” *Johnson v. United States*, 529 U.S. 694, 708–09 (2000). Criswell's term of supervised release is intended to provide him sufficient time after his release from imprisonment to ensure that he does not fall back into his prior longstanding habits. In this way, the term of supervised release works not only to protect the public, but to benefit Criswell. He has served less than three of the four years of supervision provided for under statute, and he has provided no proof to support the claims made in his motion. Remaining under supervision for the remainder of his term is necessary in order to ensure his continued lawful participation in society, thereby fulfilling the policy behind supervised release.

Criswell contends he has exceeded the requirements of his supervised release because he has been proactive in his rehabilitation and his efforts to reduce his risk of recidivism, he has had no interaction with law enforcement, he has improved his relationship with his daughter, and he began and has had success in a new career. However, the conduct described in his motion is

simply that which is expected of any individual who is under supervision. Generally, “mere compliance with the terms of supervised release is expected, and without more, insufficient to justify early termination[.]” *United States v. Taylor*, 729 F. App’x 474, 475 (7th Cir. 2018). Moreover, “‘unblemished’ conduct following release from BOP custody ‘cannot be [a] sufficient reason to terminate ... supervised release since, if it were, the exception would swallow the rule,’ *i.e.*, diligent service of the full period of supervised release imposed at sentencing.” *United States v. Givens*, No. CR 5: 14-074-DCR, 2022 WL 2820081, at *1 (E.D. Ky. July 19, 2022) (quoting *United States v. Medina*, 17 F. Supp. 2d 245, 247 (S.D.N.Y. 1998)). Criswell’s motion does not provide sufficient justification for an early termination of his term of supervised release.

WHEREFORE, the United States opposes Criswell’s motion for early termination of his supervised release and respectfully requests that the motion be denied.

Respectfully submitted,

JONATHAN D. ROSS
United States Attorney

By: Erin O’Leary
Bar No. 2011069
Assistant United States Attorneys
Post Office Box 1229
Little Rock, Arkansas 72203
(501) 340-2600
Erin.O’Leary@usdoj.gov

CERTIFICATE OF SERVICE

I hereby certify that on November 5th, 2024, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system. I further certify that on said date, I sent by U.S. Mail a copy of this filing to:

Rodney Marquis Criswell S
2221 Wentwood Valley Dr., Apt 48
Little Rock, AR 72212

By: Erin O'Leary
Bar No. 2011069
Assistant United States Attorneys
Post Office Box 1229
Little Rock, Arkansas 72203
(501) 340-2600
Erin.O'Leary@usdoj.gov