NONPRECEDENTIAL DISPOSITION
To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

Submitted June 30, 2023
Decided July 5, 2023

Before

FRANK H. EASTERBROOK, *Circuit Judge*

MICHAEL Y. SCUDDER, *Circuit Judge*

DORIS L. PRYOR, *Circuit Judge*

No. 22-2981

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

DAVID L. GREEN,
Defendant-Appellant.

Appeal from the United States District Court for the Southern District of Illinois.

No. 3:22-CR-30071-SMY-1

Staci M. Yandle,
Judge.

O R D E R

David Green appeals the district court's revocation of his supervised release, but his appointed counsel asserts that the appeal is frivolous and moves to withdraw. *See Anders v. California*, 386 U.S. 738, 744 (1967). Green does not have an unqualified constitutional right to counsel in revocation proceedings. *See Gagnon v. Scarpelli*, 411 U.S. 778, 790–91 (1973). Still, we apply the *Anders* safeguards to ensure that all potential issues receive consideration. *See United States v. Brown*, 823 F.3d 392, 394

(7th Cir. 2016). Because counsel's brief appears to adequately address the possible issues that an appeal of this kind might involve, and Green did not respond to counsel's motion, *see* CIR. R. 51(b), we limit our review to the issues counsel raises. *See United States v. Bey*, 748 F.3d 774, 776 (7th Cir. 2014).

In 2014, Green was convicted of possessing a firearm as a felon, 18 U.S.C. § 922(g)(1), and sentenced under the Armed Career Criminal Act, 18 U.S.C. § 924(e), to 110 months' imprisonment followed by 3 years of supervised release.

In June 2022, about four months after Green's release from prison, a probation officer petitioned to revoke his supervision based on three alleged violations of his release: commission of another crime (aggravated domestic battery), unlawful possession of a controlled substance (methamphetamine), and failure to participate in required behavioral treatment. The probation officer recommended a revocation sentence of 51 months' imprisonment, the bottom of the policy-statement range (based on Green's criminal history category of VI, his commission of a Grade A violation—the domestic battery offense—with the underlying offense being a Class A felony, capped by a 60-month statutory maximum, 18 U.S.C. § 3559(a)). *See* U.S.S.G. § 7B1.4(a)–(b). She also recommended a supervised release term of 60 months, minus any term of imprisonment that the district court would impose. 18 U.S.C. § 3583(b)(1), (e)(3).

At the joint revocation-and-sentencing hearing, Green admitted to each violation. When asked by the court if his admissions were voluntary and knowing, Green affirmed that they were. Green did not object to the calculation of the statutory maximum or policy-statement range. He did object to a proposed condition of his future supervised release that would prevent him from contacting his ex-wife (the victim of his aggravated domestic battery conviction), but the district court concluded that the condition was necessary to protect his ex-wife and was neither vague nor overly long.

The court then revoked Green's supervised release and sentenced him to 54 months' imprisonment and 6 months' supervised release. The court acknowledged Green's acceptance of responsibility but found "severe punishment" warranted based on the sentencing factors set forth in 18 U.S.C. § 3553(a), including Green's extensive history of violent conduct, his serious drug use, his mental-health issues, and the need to protect the public.

At the outset, counsel reports that Green does not wish to challenge the validity of the revocation itself, and so counsel appropriately discusses only possible challenges to Green's new sentence. *See United States v. Wheeler*, 814 F.3d 856, 857 (7th Cir. 2016).

Counsel first considers whether Green could challenge his new terms of imprisonment and supervised release, and rightly rejects any such argument as frivolous. Because Green did not object to the district court's calculation of the policy-statement range, our review would be for plain error. *Id*. And here, the 54-month prison term was substantively and procedurally reasonable. The court correctly determined that Green's most serious offense—aggravated domestic battery, *see* 720 ILCS 5/12-3.3—was a Grade A violation, that his underlying conviction was a Class A felony, and that he had a criminal history category of VI—yielding a policy-statement range of 51–63 months in prison. U.S.S.G. § 7B1.1(a)(1). In addition, the court accounted for the relevant sentencing factors under 18 U.S.C. § 3553(a) by highlighting the combination of Green's violent conduct, his serious use of methamphetamine, his mental-health issues, and the need to protect the public.

Finally, we agree with counsel that it would be frivolous to challenge the condition prohibiting Green from contacting his ex-wife. A condition of supervised release should not be broader than necessary to promote deterrence, *United States v. Kappes*, 782 F.3d 828, 845 (7th Cir. 2015), and the court here appropriately justified the no-contact condition as relatively short in duration, necessary to protect the public, and not so broad that it would interfere with Green's familial relationships. *See* 18 U.S.C. § 3583(d)(3). If Green—after he begins serving the term of supervised release—believes the no-contact condition to be overly burdensome, he would be free to seek modification under 18 U.S.C. § 3583(e)(2). *See Brown*, 823 F.3d at 395.

We GRANT counsel's motion to withdraw and DISMISS the appeal.