

NONPRECEDENTIAL DISPOSITION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 December 20, 2023

Decided January 8, 2023

Before

DIANE S. SYKES, *Chief Judge*

CANDACE JACKSON-AKIWUMI, *Circuit Judge*

JOHN Z. LEE, *Circuit Judge*

No. 23-1744

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

TRENTYN D. LOUVIER-GIBSON,
Defendant-Appellant.

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

No. 3:18-CR-30173-SMY-1

Staci M. Yandle,
Judge.

ORDER

Trentyn Louvier-Gibson appeals the sentence imposed upon the revocation of his supervised release, but his counsel asserts that the appeal is frivolous and moves to withdraw. *See Anders v. California*, 386 U.S. 738 (1967). We grant counsel's motion and dismiss Gibson's appeal.

Although a defendant has no absolute right to counsel in revocation proceedings, *see Gagnon v. Scarpelli*, 411 U.S. 778, 789–90 (1973), our practice is to follow the *Anders* framework in this context. *See United States v. Brown*, 823 F.3d 392, 394 (7th Cir. 2016). Counsel's brief explains the nature of the case, addresses the issues that an appeal of

this kind might involve, and the analysis appears thorough. Gibson did not respond to counsel's motion, *see* CIR. R. 51(b), so we focus our review on the subjects that counsel discusses. *See United States v. Bey*, 748 F.3d 774, 776 (7th Cir. 2014).

Gibson pleaded guilty, in 2019, to possessing a firearm as a felon, *see* 18 U.S.C. § 922(g)(1), and was sentenced to 42 months' imprisonment. He served his prison term and part of his supervised release before a probation officer petitioned for revocation. The amended revocation petition, filed before Judge Yandle, alleged that Gibson violated the conditions of his supervised release in multiple ways, including by possessing more than 15 but less than 100 grams of methamphetamine, possessing a firearm, and failing to communicate with his probation officer as required.

The government charged him separately, based on the same conduct, under 21 U.S.C. § 841(a)(1) and 18 U.S.C. § 922(g)(1). That case proceeded before Judge Dugan. Gibson ultimately pleaded guilty to possessing a firearm as a felon and possessing with intent to distribute a controlled substance. *United States v. Louvier-Gibson*, No. 3:22-cr-30113-DWD (S.D. Ill. Mar. 15, 2023).

In April 2023, Judge Yandle held (via videoconference) a final revocation hearing. Gibson admitted to the violations. The judge revoked his supervised release and sentenced him to 24 months' imprisonment, with no additional supervision. The judge ordered that the sentence run consecutive to any sentence he would receive in the new federal case.

Counsel first tells us that Gibson does not want to challenge his revocation and properly refrains from discussing whether there were any errors related to the revocation or Gibson's admissions. *See United States v. Wheeler*, 814 F.3d 856, 857 (7th Cir. 2016); *United States v. Knox*, 287 F.3d 667, 672 (7th Cir. 2002).

Next, counsel considers whether Gibson could raise any non-frivolous procedural challenges to his sentence and correctly concludes that he could not. Judge Yandle correctly determined that revocation was required because he possessed a controlled substance. *See* 18 U.S.C. § 3583(g). The judge also correctly stated that Gibson had committed a Grade A violation, *see* U.S.S.G. § 7B1.1(a)(1); 21 U.S.C. § 841(a)(1), which, combined with his criminal history category of IV, resulted in a recommended range of 24 to 30 months' imprisonment. *See* U.S.S.G. § 7B1.4.¹ The judge's chosen

¹ The judge did not explain why she concluded that Gibson committed a Grade A violation. At the hearing and in the judgment, she characterized Gibson's violation as committing the offense of "possession of methamphetamine more than 15 grams but

sentence—24 months—was thus within the range recommended by the policy statements and did not exceed the statutory maximum. *See* 18 U.S.C. §§ 3583(e)(3); 3559(a)(3).

Counsel also considers and rightly rejects arguing under 18 U.S.C. § 3584(a) that the judge lacked authority to make Gibson’s revocation sentence consecutive to any sentence he would receive in the new federal case. We have yet to address this issue in a published opinion, but other federal circuits have concluded that the statute prevents a district judge from making a sentence consecutive to an anticipated federal sentence. *See United States v. Ramon*, 958 F.3d 919, 922–23 (10th Cir. 2020) (collecting cases). In any event, his failure to raise this issue at the sentencing hearing means that our review would be for plain error, *United States v. Carnell*, 35 F.4th 1092, 1095 (7th Cir. 2022), and here the error could not be plain, given the absence of precedent from the Supreme Court or this court. *See United States v. Hosseini*, 679 F.3d 544, 552 (7th Cir. 2012).

Finally, counsel correctly concludes that any argument regarding the substantive reasonableness of the sentence would be fruitless. The 24-month term was within the range recommended by the Chapter 7 policy statements, so we would presume it reasonable. *United States v. Yankey*, 56 F.4th 554, 560 (7th Cir. 2023). And we see nothing to disturb that presumption. The judge, emphasizing Gibson’s history and characteristics as well as the need for deterrence, appropriately concluded that a 24-month, consecutive sentence was reasonable. *See* 18 U.S.C. § 3553(a).

We therefore GRANT counsel’s motion and DISMISS the appeal.

less than 100 grams.” (Sentencing Tr. at 6; J. at 1.) But simple possession, unless punishable by more than 20 years’ imprisonment, is not a Grade A violation. *See* U.S.S.G. §§ 4B1.2(b); 7B1.1(a). The record, however, reflects that Gibson already had pleaded guilty in case no. 3:22-cr-30113-DWD, based on the same conduct, to possessing with intent to distribute a controlled substance, a Grade A violation.