

August 28, 2006

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 05-50518
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

SCOTTY J. NOBLES,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 1:04-CR-265-ALL

Before DAVIS, SMITH, and WIENER, Circuit Judges.

PER CURIAM:*

Scotty J. Nobles was sentenced to a 21-month term of imprisonment and a three-year term of supervised release following a guilty plea to conspiracy to manufacture counterfeit federal reserve notes. After Nobles was released to his term of supervision, he pleaded guilty to a petition charging that he had violated the terms of his supervised release by testing positive for controlled substances on three occasions. The district court sentenced him to a 24-month term of imprisonment.

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

Nobles argues that his sentence is plainly unreasonable because the district court ignored Nobles's willingness to participate in drug treatment at his own expense, if he were allowed to continue on supervised release. Nobles contends that the circumstances of his case do not warrant the 24-month statutory maximum sentence imposed by the district court.

Although the term of imprisonment imposed upon revocation of Nobles's supervised release exceeded the sentencing range indicated by the policy statements in Chapter Seven of the United States Sentencing Guidelines, it did not exceed the statutory maximum term of imprisonment that the district court could have imposed, and was thus within the authority of the district court. See 18 U.S.C. § 3583(e)(3). Nobles cannot demonstrate that his sentence on revocation is error. See United States v. Hinson, 429 F.3d 114, 120 (5th Cir. 2005), cert. denied, 126 S. Ct. 1804 (2006).

AFFIRMED.