

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-1347
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

KENNETH DUANE HOUSE,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:91-CR-058-A c/w 91-CR-070-A
- - - - -
(January 5, 1994)

Before GARWOOD, JOLLY, and BARKSDALE, Circuit Judges.

PER CURIAM:*

The abuse-of-discretion standard applies in reviewing the district court's decision to revoke supervised release. See United States v. Kindred, 918 F.2d 485, 488 (5th Cir. 1990). However, upon a finding by a preponderance of the evidence that House possessed a controlled substance, revocation of supervised release was mandatory under 18 U.S.C. § 3583(g). Id. at 487.

The district court found by a preponderance of the evidence that House violated seven conditions of supervised release. The

* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

district court could have revoked House's supervised release based on any one of these violations.

House challenges the sufficiency of the evidence for two of the violations. Assuming arguendo that the evidence was insufficient to prove violations on the grounds of cocaine possession and an "uncounseled" guilty plea in an assault conviction, such error was harmless. The district court judge stated that, regardless of the mandatory provisions of 18 U.S.C. § 3583(g), he was ordering an 18-month sentence due to the "large number and seriousness of the violations."

Because the district court did not abuse its discretion by revoking House's supervised release on other grounds, this Court will not address House's arguments.

AFFIRMED.