

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-7236
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

J.D. ROBINSON,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Northern District of Mississippi
USDC No. CRD91-111-D
- - - - -
(January 6, 1994)

Before GARWOOD, JOLLY, and BARKSDALE, Circuit Judges.

PER CURIAM:*

J.D. Robinson challenges the district court's imposition of a fourteen-month term of imprisonment following the revocation of his probation.

A convicted criminal placed on probation may have that probation revoked if he violates a condition of that probation at any time before the probationary term expires. 18 U.S.C. § 3565(a); United States v. Sosa, 997 F.2d 1130, 1132 (5th Cir. 1993). Congress later amended § 3565(a) to mandate that any

* 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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

defendant who violates the controlled substance provision of his probation shall have his probation revoked and be sentenced to "not less than one-third of the original sentence." Sosa, 997 F.2d at 1132 (quoting 18 U.S.C. § 3565(a)(1), (2)).

Robinson contends that the language "original sentence" refers to the original guideline imprisonment range which, in this case, was 0-6 months. In Sosa, we addressed precisely this issue, holding that "Congress used the term 'original sentence,' which plainly refers to the sentence imposed on the defendant for his original crime. The statute is unambiguous." Sosa, 997 F.2d at 1133. The district court properly resentenced Robinson based upon the original three-year term of probation and imposed fourteen months of incarceration; that is, at least one-third of the three-year probation period. As Robinson's challenge has already been conclusively rejected by this Court, his sentence is AFFIRMED.