

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-50677
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

BYRON SINCLAIR COTTON,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Western District of Texas
USDC No. P-88-CR-43(1)
- - - - -

June 30, 1995

Before JONES, WIENER, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

Byron Sinclair Cotton contends that the district court abused its discretion in revoking his supervised release and in imposing a subsequent term of imprisonment. In 1988, Cotton pleaded guilty to possession with intent to distribute more than 100 grams of phencyclidine. Cotton and the Government seem to believe that Cotton's offense was a Class C felony which required only up to a three-year term of supervised release, which in turn, made the district court's imposition of a five-year term of supervised release illegal. However, Cotton's offense required a

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 Pursuant to that Rule, the court has determined that this opinion should not be published.

mandatory five-year term of supervised release. 21 U.S.C. § 841(a) and (b) (1988). Additionally, because the maximum term of imprisonment authorized for Cotton's offense was not less than 10 years of imprisonment or more than life imprisonment, his offense was classified as a Class B felony, for which the authorized term of supervised release is not more than five years. 18 U.S.C. §§ 3583(b) & 3559 (1988 & 1995); 21 U.S.C. § 841(a) and (b) (1988). Consequently, the five-year term of supervised release for Cotton was not illegal.

A sentencing court is authorized to revoke supervised release and "require the defendant to serve in prison all or part of the term of supervised release . . . without credit for time previously served on post release supervision" if it finds there was a violation of the conditions of supervised release. 18 U.S.C. § 3583(e). A single violation of the conditions of supervised release can be sufficient to warrant revocation. Id. Revocation of supervised release is reviewed for an abuse of discretion. United States v. Kindred, 918 F.2d 485, 488 (5th Cir. 1990).

Cotton admitted to the district court during his revocation hearing that he had failed to report to his probation officer and had failed to participate in a drug treatment program. Additionally, the district court imposed a term of imprisonment which was well within the applicable five-year period. The district court did not abuse its discretion in revoking Cotton's

supervised release and imposing a subsequent term of imprisonment.

AFFIRMED.