

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

**CRIMINAL ACTION NO. 2:99 CR 9
(Maxwell)**

JOHNNIE DALE CUTRIGHT,

Defendant.

ORDER

It will be remembered that on December 13, 1999, Johnnie Dale Cutright, the Defendant in the above-styled criminal action, entered a plea of guilty to Count One of a one-count Indictment filed herein on September 16, 1999, and charging him with being a convicted felon in possession of a firearm in violation of 18 U.S.C. § 922(g)(1).

It will further be recalled that on June 9, 2000, the Defendant was sentenced by this Court to a term of imprisonment of twelve months and one day, to be served at Bannum Place of Clarksburg, West Virginia; a term of supervised release of three years; and a mandatory special monetary assessment of \$100.00.

Finally, it will be recalled that, following a successful appeal of the June 9, 2000, sentence by the United States, the Defendant was re-sentenced on March 5, 2002, to a term of imprisonment of thirty months, with a recommendation that the Defendant be given credit for the twelve months and one day of time served at Bannum Place in Clarksburg, West Virginia; a term of supervised release of two years; and a mandatory special monetary assessment of \$100.00.

The docket in the above-styled criminal action reflects that the Defendant began serving his two-year term of supervised release on July 15, 2003.

On July 5, 2005, a Petition for Warrant or Summons for Offender Under Supervision submitted to the Court by United States Probation Officer Eydie B. Feathers on June 28, 2005,

was filed under seal in the above-styled criminal action (See Docket No. 43). In said Petition, Probation Officer Feathers alleged that the Defendant had failed to abide by Standard Condition Numbers Two and Six of the Conditions of Supervised Release imposed upon him by this Court on March 5, 2002. Specifically, Probation Officer Feathers alleged that the Defendant had failed to submit written monthly reports for the months of March, 2005; April, 2005, and May, 2005; and that the Defendant had failed to make any other contact with the Probation Office since March of 2005. The Petition further alleged that the Defendant had moved from his last known residence without providing a forwarding address and that he had been fired by his last known employer.

The docket in the above-styled criminal action reflects that a preliminary hearing with regard to the Petition for Warrant or Summons for Offender Under Supervision was conducted by United States Magistrate Judge John S. Kaull on July 8, 2005; that the Defendant was released on a personal recognizance bond subject to the terms and conditions of release set forth in an Order Setting Conditions Of Release entered by Magistrate Judge Kaull on that same date; and that a final hearing with regard to the Petition for Warrant or Summons for Offender Under Supervision was conducted by United States Magistrate Judge John S. Kaull on July 12, 2005.

Thereafter, on July 25, 2005, Magistrate Judge Kaull entered a Report And Recommendation/Opinion wherein he recommended that the Court dismiss the Petition for Warrant or Summons for Offender Under Supervision and formally release the Defendant from the provisions of his supervised release effective July 15, 2005.

Magistrate Judge Kaull's Report And Recommendation/Opinion advised the parties, pursuant to 28 U.S.C. § 636(b)(1), that any objections to said Opinion/Report And Recommendation which were not filed, in writing, with the Clerk of Court within ten (10) days after being served with a copy of said Report And Recommendation/Opinion would be waived.

The docket in the above-styled criminal action reflects that no objections to Magistrate Judge Kaull's Report And Recommendation/Opinion have been filed.

The Court has reviewed the record before it and has conducted a *de novo* review of all matters before United States Magistrate Judge John S. Kaull in considering the Petition for

Warrant or Summons for Offender Under Supervision. Based upon its review, it appears to the Court that Magistrate Judge Kaull's Report And Recommendation/Opinion accurately reflects the law applicable to the facts and circumstances before the Court in the above-styled criminal action. Accordingly, it is

ORDERED that the Report And Recommendation/Opinion entered by United States Magistrate Judge John S. Kaull on July 25, 2005, be, and the same hereby is, **ACCEPTED** in whole. It is further

ORDERED that the Petition for Warrant or Summons for Offender Under Supervision (Docket No. 43) be, and the same hereby is, **DISMISSED** in accordance with the recommendation of United States Magistrate Judge John S. Kaull. It is further

ORDERED that, effective July 15, 2005, the Defendant be, and hereby is, **DISCHARGED** from the two-year term of supervised release imposed upon him on March 5, 2002.

The Clerk of Court is directed to transmit copies of this Order to counsel of record in the above-styled criminal action and to United States Probation Officer Eydie B. Feathers.

ENTER: August 10th, 2005

/s/ Robert E. Maxwell
United States District Judge