

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

UNITED STATES OF AMERICA,

v.

Criminal No. 2:01cr20-4

JOSHUA CRITES,

Defendant.

ORDER/OPINION

On the 20th day of December 2006, came the defendant, Joshua Crites, in person and by his counsel, L. Richard Walker, and also came the United States by its Assistant United States Attorney, Shawn Angus Morgan, pursuant to a Petition for Warrant or Summons for Offender Under Supervision filed in this case on December 5, 2006, alleging that Defendant violated the Special Condition of his Conditions of Supervised Release requiring him to abstain from the use or possession of any alcohol. The Probation Officer alleged that Defendant was approved for a 48-hour home pass for the Thanksgiving holiday to be with family. When Defendant returned to the halfway house, he was administered an alcohol test which was returned positive for alcohol.

The defendant's Probation Officer further noted he had filed five previous non-compliance summaries: 1) April 28, 2004, positive test for cocaine; 2) Failure to report for scheduled drug screens on October 16, 20, and 23, 2004; 3) Positive test for marijuana on September 26, 2005; 4) failure to report for drug testing on February 24, 2006 and testing positive for cocaine on March 3, 2006; and 5) violation of home confinement by leaving without approval on August 2 and 13, 2006;

failure to submit a urine sample on August 3, 2006; failure to report for drug testing June 29, 2006; and failure to report to the Probation Officer on August 4, 2006.

Following the March 3, 2006, violation, the Probation Officer filed a 12B requesting a modification of Defendant's conditions of release to include three months of home confinement with electronic monitoring and no use or possession of alcohol. The Court ordered the requested modifications. The defendant was placed on active home confinement with electronic monitoring on May 31, 2006.¹

Following his arrest on the violations alleged in 5 above, the defendant admitted those violations. The Court modified Defendant's conditions, placing at Bannum Place of Clarksburg in lieu of revocation.

Prior to the taking of evidence, counsel for Defendant waived the preliminary hearing in writing, conceding probable cause existed to forward this revocation matter to Chief United States District Judge Irene M. Keeley for hearing and disposition.

Upon consideration of all which, the Court finds there is probable cause to believe that the defendant violated the conditions of his supervised release as alleged in the Petition for Warrant or Summons for Offender Under Supervision filed December 5, 2006.

It is therefore **ORDERED** that the defendant be bound over for a full hearing before the Honorable Irene M. Keeley, Chief United States District Judge for the Northern District of West Virginia on the violations alleged the Petition for Warrant or Summons for Offender Under Supervision filed December 5, 2006.

¹It was during this three- month period that all the violations alleged in 1 through 5 occurred.

It is further **ORDERED** that Defendant remain at the Bannum House under the same Conditions of Release previously entered pending further proceedings in this matter.

The Clerk of the Court is directed to send a copy of this order to counsel of record.

DATED: December 21, 2006.

/s *John S. Kaul*

JOHN S. KAULL

UNITED STATES MAGISTRATE JUDGE