

FILED

MAY - 2 2007

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

U.S. DISTRICT COURT
CLARKSBURG, WV 26301

UNITED STATES OF AMERICA,

v.

Criminal No. 1:02cr67

OTIS ROWELL,

Defendant.

ORDER/OPINION

On the 30th day of April 2007, came the defendant, Otis Rowell, in person and by his counsel, Brendan S. Leary, and also came the United States by its Assistant United States Attorney, Zelda E. Wesley, pursuant to a Petition for Warrant or Summons for Offender Under Supervision filed in this case on January 22, 2007, alleging:

1. Violation of Mandatory Condition: The defendant shall not commit another federal, state or local crime. On or about December 9, 2006, the defendant was arrested for Domestic Battery, 3rd Offense and Fugitive from Justice by the Fairmont Police Department. These charges were filed in Marion County Magistrate Court and bound over to Marion County Circuit Court on December 22, 2006. It is alleged the defendant struck his girlfriend, Lori Volek in the face with his fist causing a laceration on her forehead. Ms. Volek required emergency treatment at Fairmont General Hospital

In the Petition the defendant's Probation Officer further noted that Defendant has a history of domestic violence and substance abuse, with four previous convictions for domestic battery, one of which resulted in a 1-5 year sentence of incarceration.

The Court heard the testimony of United States Probation Officer Vincent T. Zummo, who

testified that he has been Defendant's supervising probation officer since about October 2006. Defendant's supervision commenced on July 12, 2006. Officer Zummo testified that Defendant was arrested on or about December 9, 2006, on a domestic violence charge in Marion County, West Virginia. On April 13, 2007, Defendant pleaded guilty to the lesser included offense of domestic battery. He was sentenced to 125 days in jail with credit for time served. In addition, Officer Zummo testified that Defendant had four prior domestic-related convictions.

Upon cross examination, Officer Zummo testified that Defendant had been drug tested since his supervised release commenced, with all tests being negative. He had no arrests since his supervised release commenced with the exception of the instant offense. He was employed and working for the first time, and Officer Zummo had no reports that Defendant was not doing well. Officer Zummo did not know how the argument started that culminated in Defendant's domestic violence charge, and did not know who started the argument. He did not know if Defendant had been bitten or otherwise injured in the incident. He did not know Defendant's girlfriend, Lori Volek. He became aware of Defendant's arrest when an individual called him to say that Defendant had been arrested. Defendant himself did write to Officer Zummo and reported his arrest.

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 January 22, 2007.

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 January 22, 2007.

Defendant waived a detention hearing in this matter. It is therefore further **ORDERED** that Defendant be remanded to the custody of the United States Marshal 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: *May 2, 2007*



JOHN S. KAULL
UNITED STATES MAGISTRATE JUDGE