

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA,

v.

CASE NO. 8:07-CR-355-T-17MAP

BRANDON LEE DAVIS.

ORDER

This cause is before the Court on:

Dkt. 40 Motion to Terminate Supervised Release
Dkt. 42 Response in Opposition

Defendant Brandon Lee Davis, pro se, moves for early termination of supervised release pursuant to 18 U.S.C. Sec. 3583(e).

In Count 1 of the Indictment, Defendant Davis was charged with possession with intent to distribute a quantity of a mixture and substance containing a detectable amount of MDMA, commonly known as Ecstasy, in violation of 21 U.S.C. Secs. 841(a)(1) and 841(b)(1)(C), and 18 U.S.C. Sec. 2. In Count 2 of the Indictment, Defendant Davis was charged with knowingly using and carrying a firearm during and in relation to a violation 21 U.S.C. Sec. 841(a)(1), as alleged in Count 1, and incorporated in Count 2 by reference, as drug trafficking crime, in violation of 18 U.S.C. Sec. 924(c)(1)(A)(I).

On January 31, 2008, Defendant Brandon Lee Davis entered a straight up plea of guilty as to Counts 1 and 2 of the Indictment. (Dkt 19). On June 6, 2008, Defendant Brandon Lee Davis was sentenced to a term of imprisonment of 132 months; 72 months as to Count 1 of the Indictment, and 60 months as to Count 2 of

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the Indictment, consecutive to Count 1; a term of supervised release of 48 months on Counts 1 and 2, concurrent; fine waived, and a special assessment of \$200.00.

Defendant Davis was sentenced under the guidelines manual effective November, 2007. The PSR indicates that as to Count 1, in determining the base offense level, Defendant Davis was accountable for a total 318.82 kilograms of marijuana (Dkt. 30, p.10).

The PSR further provides:

11. ...The FHP recovered a fully loaded Glock Model 17 - 9 mm (Serial AZFO53US), semi-automatic pistol loaded with hollow point ammunition from Davis' waistband, and two loaded Glock magazines from his pants pockets. A total of 71 rounds of 9 mm ammunition and three Glock 9 mm magazines were seized. The officer also discovered that Davis was wearing a Goldflex bullet resistant vest under his shirt....

(Dkt. 30, p. 10).

Defendant Davis appealed the final judgment and sentence, (Dkt. 25), but the appeal was dismissed for lack of prosecution. (Dkt. 29). Defendant Lee moved for a sentence reduction pursuant to Amendment 782. (Dkt. 35). The Court granted the Unopposed Motion for Retroactive Application of the Sentencing Guidelines pursuant to Amendment 782, reducing Defendant Lee's term of imprisonment on Count 1 to 57 months, or time served, whichever is greater. (Dkt. 36).

Defendant Davis was released to supervised release on February 3, 2016. Defendant Davis asserts that Defendant has complied with all conditions of supervised release, has maintained full-time employment, has undergone the

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required drug tests, with negative results, submits monthly reports in a timely manner, and meets the criteria for early termination of supervised release.

The Government and the U.S. Probation office recognize that Defendant Davis has been compliant with the conditions of supervised release, and has tested negative for controlled substances. Nevertheless, the Government and the U.S. Probation Office oppose Defendant Davis' Motion for early termination based on the underlying facts of Defendant's convictions, specifically, the possession of the firearm, multiple hollow point bullets, wearing a bullet proof vest, and the potential for violence associated with those facts.

Defendant Davis has served more than one year of supervised release. However, pursuant to 18 U.S.C. Sec. 3583(e)(1), I have considered the factors set forth in 18 U.S.C. Secs. 3553(a)(1), (a)(2)(B), (a)(2)(C), (a)(2)(D), (a)(4), (a)(6), and (a)(7), and determine that in this case the termination of supervised release is not warranted, and is not in the interest of justice. Accordingly, it is

ORDERED that pro se Defendant Brandon Lee Davis' Motion to Terminate Supervised Release (Dkt. 40) is **denied**.

DONE and ORDERED in Chambers in Tampa, Florida on this 3rd day of May, 2019.


ELIZABETH A. KOVACHEVICH
United States District Judge

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Copies to:

All parties and counsel of record

United States Probation Office

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