

APPENDIX VOLUME II

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APPENDIX M: *United States v. Green*, No. 4:19CR206, Northern District of
Ohio hearing transcript, May 2, 2023 87a

1 UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION

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5 UNITED STATES OF AMERICA,)
6 Plaintiff,) Case No. 4:19CR206
7 vs.)
8 TERRELL D. GREEN,)
9 Defendant.)

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13 TRANSCRIPT OF PROCEEDINGS HAD BEFORE THE HONORABLE
14 JUDGE DAN A. POLSTER, JUDGE OF SAID COURT,
15 ON TUESDAY, MAY 2ND, 2023,
16 COMMENCING AT 10:00 O'CLOCK A.M.

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21 Court Reporter: GEORGE J. STAUDUHAR
22 801 W. SUPERIOR AVE.,
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APPEARANCES:

On behalf of the Government:

OFFICE OF THE U.S. ATTORNEY
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On behalf of the Defendant:

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P R O C E E D I N G S

THE COURT: Good morning. Our next matter is case 4:19CR206, United States versus Terrell Green.

Mr. Green is here with Mr. Grostic; Ms. Kane for the Government, and Mr. Zakrajsek from probation. This is a supervised release matter.

Mr. Green was sentenced to 18 months custody for drug trafficking followed by six years of supervised release, which began July 14th of 2020 just under three years ago. We were last here after numerous notices for non compliance with use of cocaine.

I modified supervised release and imposed 60 days of home confinement with work release privileges, and I made it clear with Mr. Green this was his last chance.

However, it appears that we have additional violations just three weeks later on April 7th. According to the report, Mr. Green left his residence late in the evening without approval, notwithstanding notification by the Probation Department. He stayed at large for about two hours.

The next morning he tested positive for cocaine, admittedly used cocaine, and it appeared he consumed alcohol at the point of intoxication and drove around in that state plus using cocaine.

1 So these are Grade C violations. Mr. Green,
2 you are in Criminal History Category III. The advisory
3 range, if I revoke supervised release is five to eleven
4 months. I can send you back to prison for up to two
5 years. You are entitled to a hearing.

6 Do you wish to have a hearing, or are you
7 prepared to admit to these violations?

8 THE DEFENDANT: I am prepared to admit.

9 THE COURT: All right. You discussed all
10 this with Mr. Grostic.

11 THE DEFENDANT: Yes.

12 THE COURT: All right. I find that's a
13 knowing, voluntary waiver that you have committed these
14 Grade C violations, and I will hear from both counsel,
15 probation, and Mr. Green if he wishes.

16 So Mr. Grostic?

17 MR. GROSTIC: Thank you, Judge. I know the
18 Court is well aware of Mr. Green's violations and
19 previous violations. I do want to emphasize that over
20 the course of his release, which has been nearly three
21 years now, he has maintained stable employment,
22 maintained stable residence. He has not had any new law
23 violations. He has reported as instructed.

24 He does have a continuing drug problem.
25 That's obvious, and I know the Court is aware of that.

1 His relapses, as we examine the report, have gotten
2 greater over the time. He has participated actively in
3 treatment programs. He obviously still needs to go
4 further and do more.

5 We would ask the Court to continue him on
6 supervision still, place him in intensive outpatient
7 treatment again as another reset. Hopefully, this time,
8 at least a longer period, hopefully no relapse at all,
9 but that drug abuse problem is a very difficult problem.

10 He is dealing with it; he has been trying to
11 deal with it. He has not been successful yet. But
12 again, his relapses have gotten more rare, and he has
13 done this while maintaining everything else that I think
14 the Court would expect of him.

15 So I know the Court is aware of his
16 problems, and I know the Court is interested in trying to
17 fashion a response that will protect the community as
18 well as getting him on track, and we do believe that's
19 the best thing to do. So we would ask the Court to do
20 that. Thank you.

21 THE COURT: All right. Mr. Green, anything
22 you would like to say?

23 THE DEFENDANT: Yes, sir, your Honor.

24 Last time we had spoken you granted me 60
25 days, and one thing you did say, you let me understand,

1 you know, that my addiction basically, you know, is a
2 tricky thing. It is really up to me. And you know, 85
3 percent says since I have been incarcerated I have been
4 home. I almost get it altogether.

5 THE COURT: Sir, sir, hold it, stop. This
6 isn't coming out. I can't hear you, and the court
7 reporter can't hear you. So you have to do something
8 with your sound, or else we will have to do this in
9 Court.

10 COURTROOM DEPUTY: Mr. Green, I would get
11 somewhere where you have better service.

12 THE DEFENDANT: Well, like I was saying,
13 your Honor, when we spoke last time you made it clear
14 that it is a decision-making and it is also tricky.

15 You know, I have been doing a heck of a lot
16 better. My counselor -- I have been making mass
17 movements through my counselors, but I do realize I need
18 a little more, some more help, and I was supposed to
19 start school April 24th.

20 But then, I made a bonehead decision and
21 have to push that back. You know, I believe I need a
22 little extra help. I would love to revisit IOP if the
23 courts would allow that.

24 THE COURT: All right. Thank you, sir.
25 Ms. Kane?

1 MS. KANE: Thank you, your Honor.

2 The Government would be interested in the
3 opinion of the Probation Department, whether or not they
4 are willing to grant Mr. Green any final chances.

5 Especially we would draw the Court's
6 attention, as you stated, that in March the Court stated
7 that was Mr. Green's last chance;

8 That he needed to be compliant with
9 probation and drug use, and he has failed to do so as the
10 Court pointed out. I believe three weeks after that
11 hearing he tested positive for illicit substances.

12 THE COURT: Well, Mr. Zakrajsek, I would
13 like to hear from you.

14 MR. ZAKRAJSEK: Thank you, your Honor.

15 Mr. Green has completed outpatient services
16 twice. He completed the relapse prevention program
17 successfully. After a series of relapses, he was placed
18 in a residential substance abuse programming, which he
19 successfully completed.

20 Following residential, Mr. Green
21 transitioned to intensive outpatient programming and
22 again relapse prevention, which he also completed.
23 Shortly after that time, Mr. Green again relapsed
24 resulting in the violation hearings that were held
25 earlier this year in February or March.

1 Mr. Green continues to abuse substances. He
2 does well when he is in treatment, but as soon as he
3 completes that obligation, he quickly returns to his
4 abusive substances.

5 The probation office also finds it
6 concerning that, you know, Mr. Green was provided one
7 last opportunity by your Honor, disregarded that
8 obligation, took it upon himself to leave his residence
9 while under the influence of alcohol and narcotics,
10 refused directives by myself to return home, and just
11 appears to continue to fall into this pattern of
12 substance abuse.

13 It is the opinion of myself and the
14 probation office that I don't know if continued treatment
15 will assist Mr. Green at this time. He has had ample
16 opportunity to correct his ways and continues to return
17 to the same behavior.

18 THE COURT: All right. The Court has
19 reviewed the thorough report. I have listened to
20 everyone. Mr. Green, the problem is that I am
21 responsible for the community and for you. You were
22 driving around that night very seriously impaired. It is
23 miracle that you didn't hurt yourself or others, and that
24 would have been on me because I gave you the channels to
25 stay out.

1 And you obviously have this substance abuse
2 problem. It is an illness. You didn't want to get
3 addicted, but you are, and we have devoted a tremendous
4 amount of resources to helping you.

5 And you want -- you still want help, and you
6 recognize you have a problem. This is what I am going to
7 do. I made it clear that was your last chance the last
8 time, and I meant it.

9 So I am going to impose a 60-day prison
10 sentence, and then, you are going to go on supervised
11 release and go into intensive outpatient treatment.

12 Hopefully, you can do it this time, but the
13 next time I will just have to send you to prison for a
14 longer period, and that will be the end of it.

15 Mr. Zakrajsek has only so many hours in a
16 day and only so many people he can help, and we have
17 limited resources. You have been to every possible drug
18 treatment we have got. You do fine in treatment, but
19 then, you relapse.

20 THE DEFENDANT: Can I -- oh.

21 THE COURT: I think you need a sanction
22 maybe to give you a real wakeup and also to punish you
23 for driving around in a state where it is an absolute
24 miracle you didn't kill somebody, hurt someone badly, or
25 yourself, and I am hoping that you will have one more

1 chance at intensive outpatient.

2 And if that works, fine. But if it doesn't,
3 there isn't much more we can do.

4 So you do have the right to appeal this
5 sentence, and if you wish to do, so you have 14 days to
6 file your notice, and you should report to the U.S.
7 Marshals. Where do you live? Are you in Youngstown?

8 THE DEFENDANT: Youngstown, yes.

9 THE COURT: All right. Well, you are to
10 report to the U.S. Marshals by 3:00 p.m. today to begin
11 your sentence.

12 So Ms. McCardle will tell the Marshals to
13 expect Mr. Green to report by 3:00 p.m. today.

14 COURTROOM DEPUTY: Will do.

15 THE COURT: All right. Mr. Green, you
16 wanted to say something?

17 THE DEFENDANT: Well, I was going to say
18 into my defense that, you know, the alcohol I was not
19 driving around drinking. I bought that, came home and
20 was drinking, and once I got -- I was not driving around
21 drinking.

22 THE COURT: The report says you were. I am
23 trusting Mr. Zakrajsek, and no one brought anything to my
24 attention to the contrary, and that's in the report, and
25 your lawyer saw it and went over it with you.

1 I have imposed my sentence, and if you want
2 to appeal, you can appeal. If you don't, I hope when you
3 come out you have one more chance of intensive outpatient
4 treatment. You are getting all this treatment, but you
5 have to make the decision yourself at some point. All
6 right. I hope maybe this would help you.

7 Anything further from the Government or the
8 Defendant?

9 MS. KANE: Nothing on behalf of the
10 Government, your Honor.

11 MR. GROSTIC: Your Honor, just for the
12 record, I just want to for appeal purposes lodge an
13 objection for the Court considering the nature of
14 punishment as far as sentence.

15 I don't think that's proper under the
16 supervised release statute. But I understand the
17 Court's --

18 THE COURT: Oh, I disagree. I disagree. I
19 absolutely can punish him. Punishment is not part of
20 supervised release, but punishment for a violation is
21 certainly appropriate, Mr. Grostic. We do it all the
22 time.

23 MR. GROSTIC: I understand the Court's
24 decision.

25 THE COURT: So I am punishing Mr. Green for

1 violating my directives and the orders of probation,
2 providing supervised release, and punishment is
3 absolutely appropriate for that.

4 You are absolutely correct, the purpose of
5 supervised release is rehabilitation. Someone who
6 violates a condition of supervised release absolutely can
7 be punished, should be. All right.

8 We are adjourned. Thank you.

9 MR. ZAKRAJSEK: Your Honor, one moment.

10 THE COURT: Yes.

11 MR. ZAKRAJSEK: For clarification, I didn't
12 catch Mr. Green's reimposed term of supervised release.

13 Was there --

14 THE COURT: Whatever it is, it is. I am not
15 changing it. It is staying on. Okay.

16 (Hearing concluded at 10:21 a.m.)

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18 C E R T I F I C A T E

19 I, George J. Staiduhar, Official Court
20 Reporter in and for the United States District Court,
21 for the Northern District of Ohio, Eastern Division,
22 do hereby certify that the foregoing is a true
23 and correct transcript of the proceedings herein.

24 s/George J. Staiduhar
25 George J. Staiduhar,
Official Court Reporter