

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 02-2555

United States of America,

Appellee,

v.

John Ellis Brave Bird,

Appellant.

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Appeal from the United States
District Court for the
District of South Dakota.

[UNPUBLISHED]

Submitted: January 7, 2003

Filed: January 10, 2003

Before MORRIS SHEPPARD ARNOLD, MURPHY, and MELLOY, Circuit Judges.

PER CURIAM.

John Brave Bird appeals the sentence imposed by the district court¹ upon revocation of his supervised release. In 1998 Mr. Brave Bird was sentenced to 30 months imprisonment and 3 years supervised release for violating 18 U.S.C. §§ 1153, 2243(a), and 2246(2)(A). In May 2002, while he was serving his supervised release (after release from custody on a prior revocation sentence), Mr. Brave Bird

¹The Honorable Charles B. Kornmann, United States District Judge for the District of South Dakota.

admitted that he had violated a release condition. The district court revoked Mr. Brave Bird's supervised release and sentenced him to 12 months imprisonment.

On appeal, Mr. Brave Bird argues that the district court abused its discretion by imposing a prison sentence at the top of the recommended Guidelines range. After careful review of the record, we find that the 12-month sentence was within the limits of 18 U.S.C. § 3583(e)(3) and was not an abuse of discretion. Cf. United States v. Shaw, 180 F.3d 920, 922-23 (8th Cir. 1999) (per curiam) (where Guidelines recommended revocation range of 3-9 months, district court did not abuse discretion in imposing 24-month prison sentence in light of nature of violations, including repeated failure to submit urine specimens, and court's expressed desire to ensure defendant would receive intensive treatment in structured environment).

Accordingly, we affirm, and we grant counsel's motion to withdraw.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.