

**United States Court of Appeals
FOR THE EIGHTH CIRCUIT**

No. 99-1674

United States of America,

Appellee,

v.

Gerard P. Kills Enemy,

Appellant.

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

[UNPUBLISHED]

Submitted: September 7, 1999
Filed: September 16, 1999

Before BOWMAN, FAGG, and MURPHY, Circuit Judges.

PER CURIAM.

After a jury found Gerard P. Kills Enemy guilty of possessing cocaine with intent to distribute, in violation of 21 U.S.C. § 841(a)(1), the district court¹ sentenced him to 36 months imprisonment and 6 years supervised release. In February 1999, while Kills Enemy was serving his supervised release, the district court revoked the supervised release based on Kills Enemy's admission that he had violated his release conditions by testing positive for marijuana and cocaine use. While recognizing the 6-to-12-month

¹The Honorable Richard H. Battey, United States District Judge for the District of South Dakota.

imprisonment revocation range suggested under U.S. Sentencing Guidelines Manual § 7B1.4(a), p.s. (1998), the court sentenced Kills Enemy to 24 months imprisonment. He now appeals.

After a thorough review of the record, we reject Kills Enemy's argument that the district court failed to consider the applicable policy statements in Chapter 7 and the sentencing factors in 18 U.S.C. § 3553(a). See United States v. Adams, 104 F.3d 1028, 1031 (8th Cir. 1997). We also conclude the district court did not abuse its discretion in imposing the 24-month prison term. See 18 U.S.C. § 3583(e)(3); United States v. Shaw, 180 F.3d 920, 922 (8th Cir. 1999) ("sentencing ranges contained in Chapter 7 are merely advisory and thus are not binding on a sentencing court"); United States v. Grimes, 54 F.3d 489, 492 (8th Cir. 1995) (standard of review).

Accordingly, we affirm.

A true copy.

Attest:

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