

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 01-4617

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

ROBERT SCOTT ELLIS,

Defendant - Appellant.

Appeal from the United States District Court for the Southern District of West Virginia, at Charleston. David A. Faber, District Judge. (CR-91-286)

Submitted: April 16, 2002

Decided: May 1, 2002

Before WILLIAMS and GREGORY, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

David L. White, MASTERS & TAYLOR, Charleston, West Virginia, for Appellant. Kasey Warner, United States Attorney, John L. File, Assistant United States Attorney, Charleston, West Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Robert Scott Ellis appeals the district court's order sentencing him to twenty-four months incarceration for violating the terms and conditions of his supervised release. We have reviewed the record and the district court's opinion and find no reversible error. Supervised release is considered distinct from incarceration and is available in addition to the maximum term of imprisonment. See United States v. Pierce, 75 F.3d 173, 178 (4th Cir. 1996). Thus, upon revocation of supervised release, the imposition of a term of incarceration is permissible even if the resulting sentence, combined with the sentence already served, exceeds the maximum sentence allowed for the substantive offense. See, e.g., United States v. Robinson, 62 F.3d 1282, 1284-86 (10th Cir. 1995). Accordingly, we affirm on the reasoning of the district court. See United States v. Ellis, No. CR-91-286 (S.D.W. Va. July 25, 2001). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED