

UNPUBLISHED

**UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT**

UNITED STATES OF AMERICA,  
*Plaintiff-Appellee,*  
v.  
CAROLYN SUE LOUK,  
*Defendant-Appellant.*

No. 00-4721

Appeal from the United States District Court  
for the Northern District of West Virginia, at Elkins.  
Irene M. Keeley, Chief District Judge.  
(CR-98-6)

Submitted: June 21, 2001

Decided: June 29, 2001

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

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Affirmed by unpublished per curiam opinion.

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**COUNSEL**

G. Patrick Stanton, Jr., STANTON & STANTON, Fairmont, West Virginia, for Appellant. Melvin W. Kahle, Jr., United States Attorney, Sherry L. Muncy, Assistant United States Attorney, Elkins, West Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.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

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### OPINION

PER CURIAM:

Carolyn Sue Louk appeals from the district court's order revoking her probation and imposing a two-year sentence. On appeal, Louk contends that the district court abused its discretion by imposing a two-year sentence based on the court's evaluation of her need for mental health and drug treatment without the testimony of an expert. She also contends that counsel rendered ineffective assistance during the revocation hearing. We affirm.

Upon finding a probation violation, the district court may revoke probation and resentence the defendant to any sentence permitted for the original offense. 18 U.S.C.A. § 3565(a) (West 2000); *United States v. Schaefer*, 120 F.3d 505, 507 (4th Cir. 1997). In determining a defendant's sentence, the court is authorized to consider the defendant's medical and correctional needs. 18 U.S.C.A. § 3553(a)(2)(D) (West 2000); *United States v. Jackson*, 70 F.3d 874, 880 (6th Cir. 1995). Based on the court's involvement and knowledge of Louk's case, the court expressed concern that Louk was in need of a full mental health evaluation and treatment, "so that . . . her pattern upon release will not be destructive and put her back in the cycle." (JA at 9). We find that the district court was within its discretion to reject the sentence suggested by the guidelines and impose a statutorily-authorized sentence of twenty-four months in order to provide for Louk's need of treatment. See *United States v. Davis*, 53 F.3d 638, 642-43 (4th Cir. 1995).

Louk contends that counsel was ineffective for failing to subpoena witnesses to challenge the validity of the conviction upon which Louk's revocation was based, for informing the court that the conviction was valid, and for stating that she did not believe Louk was a good candidate for supervision. Claims of ineffective assistance of counsel must be raised in the district court in a motion under 28

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U.S.C.A. § 2255 (West Supp. 2000), unless the record on direct appeal conclusively establishes ineffective assistance. *United States v. King*, 119 F.3d 290, 295 (4th Cir. 1997). The record here does not clearly show such ineffective assistance. Accordingly, this claim entitles Louk to no relief.

In conclusion, we affirm the district court's order revoking Louk's probation and imposing a two-year sentence. 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*