

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 11-5062

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

KEENAN KESTER COFIELD,

Defendant - Appellant.

Appeal from the United States District Court for the District of Maryland, at Baltimore. Marvin J. Garbis, Senior District Judge. (1:04-cr-00099-MJG-1)

Submitted: May 25, 2012

Decided: June 8, 2012

Before WILKINSON, KING, and DIAZ, Circuit Judges.

Dismissed in part and affirmed in part by unpublished per curiam opinion.

Bruce A. Johnson, Jr., Law Offices of Bruce A. Johnson, Jr., Bowie, Maryland, for Appellant. Rod J. Rosenstein, United States Attorney, Sean C. Marlaire, Special Assistant United States Attorney, Baltimore, Maryland, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Keenan Kester Cofield appeals from the district court's February 23, 2011, order extending Cofield's supervised release for six months and October 26, 2011, criminal judgment sentencing him to fourteen months' imprisonment. For the reasons that follow, we dismiss in part and affirm in part.

During Cofield's service of his supervised release, imposed as part of his conviction for conspiracy to commit an offense against the United States, his probation officer filed a petition for revocation of his supervised release based on Cofield's subsequent arrest on Maryland charges. At the hearing on the petition, Cofield's defense counsel admitted the charges and asked the district court to extend Cofield's term of supervised release so that Cofield could receive mental health treatment. The court granted Cofield's request and extended his supervised release by six months.

Nonetheless, Cofield's probation officer filed another petition for revocation of supervised release based on Cofield's arrest on new state charges and his failure to follow the probation officer's direction of mental health treatment. Again, defense counsel did not contest the charges, and the district court sentenced Cofield to fourteen months of incarceration. On appeal, Cofield raises two issues: (1) whether the district court erred by revoking Cofield's probation

without an explicit, voluntary, and intelligent waiver of right to contest the violations at both hearings; and (2) whether the district court violated Cofield's due process rights by failing to afford him an opportunity to present evidence and question witnesses pursuant to Fed. R. Crim. P. 32.1.

The Government answers that Cofield's notice of appeal is untimely as to the court's February 23, 2011, order extending Cofield's supervised release because the notice of appeal was not filed until November 1, 2011. Accordingly, we dismiss the appeal as it relates to the February 23 order as parties in criminal cases have fourteen days after the entry of judgment to file a notice of appeal. Fed. R. App. P. 4(b)(1)(A)(i). Moreover, Cofield failed to obtain an extension of the appeal period. Fed. R. App. P. 4(b)(4); United States v. Reyes, 759 F.2d 351, 353 (4th Cir. 1985).

This leaves review of the district court's October 26 criminal judgment sentencing Cofield to fourteen months' imprisonment. Here, Cofield did not contest his guilt to the revocation offenses and therefore there were no witnesses or evidence presented under Rule 32.1. We find no plain error in the district court's finding that Cofield committed the offenses. United States v. Olano, 507 U.S. 725, 731-32 (1993) (stating plain error review standard).

Accordingly, we affirm Cofield's conviction and sentence for violating his supervised release. We deny Cofield's pro se motion to allow counsel to file a supplemental brief and dispense with oral argument as the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED IN PART,
AFFIRMED IN PART