

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

UNITED STATES OF AMERICA)
)
 v.) 1:98-cr-00065-JAW
)
ROBERT SEGER)

FURTHER ORDER ON EXPEDITED HEARING

On October 8, 2014, the First Circuit Court of Appeals ordered this Court to expedite the handling of Robert Seger’s anticipated motion for early termination pursuant to 18 U.S.C. § 3583(e)(1) and to act on the motion with all deliberate speed. *Order of Court* (ECF No. 36). On October 9, 2014, this Court ordered the parties and the Probation Office to present the Court with information that would justify an early termination. *Order on Expedited Hr’g* (ECF No. 38).

On October 9, 2014, Mr. Seger filed a motion for early termination. *Def.’s Req. for Early Termination of Supervised Release* (ECF No. 38). In the motion, Mr. Seger notes the following: (1) federal law authorizes an early termination; (2) the Judicial Conference Committee on Criminal Law has endorsed early terminations; (3) the District of Maine’s Probation Office has among the best early release success rates in the Country; (4) the Defendant has served 20 months of his 36 months of supervision; (5) he has also served 5 years of confinement following completion of his original term of incarceration while a hearing process was pending pursuant to 18 U.S.C. § 4248; (6) the hearing process found in favor of Mr. Seger; (7) neither Assistant United States Attorney (AUSA) Gail Malone nor (AUSA) Margaret McGaughey objects to the

early termination; and (8) the First Circuit has strongly suggested that an early termination would be appropriate. *Id.* at 1-4.

Under 18 U.S.C. § 3583(e)(1), a court is authorized to terminate a period of supervised release “if it is satisfied that such action is warranted by the conduct of the defendant released and the interest of justice.” The statute suggests that a court should consider the factors set forth in § 3553, which include among other things the nature and circumstances of the offense, the history and characteristics of the defendant, and the need to protect the public from future crimes of the defendant. 18 U.S.C. § 3553(a)(1), (a)(2)(C). This Court does not consider its obligation to apply the statute to be delegable and, although Mr. Seger has presented convincing evidence that other highly capable people think his supervised release should be terminated early, he has presented no information to allow this Court to come to the same conclusion.

The Court did not sentence Mr. Seger, does not know him, has never reviewed his Presentence Report, the Order denying the motion for civil incarceration, or the Probation Office’s current assessment of Mr. Seger. In addition to what has been presented in Mr. Seger’s motion, all this Court knows is that on December 8, 1998, he was indicted on four sex exploitation of minors offenses: possession of child pornography, receipt of child pornography, distribution of child pornography, and production of child pornography and that he was sentenced on June 3, 1999 to 60 months on Counts One and Two (possession and receipt) and 120 months on Counts Three and Four (distribution and production) plus 36 months of supervised release.

The Court also knows that not so long ago, the Government had claimed that Mr. Seger should be civilly committed because he was sexually dangerous. *See* 18 U.S.C. § 4248. The Court knows that the civil commitment proceeding was denied, but nothing more. Because the offenses all involved children, the Court is keenly cognizant of its obligation to “protect the public from future crimes of the defendant”, 18 U.S.C. § 3553(a)(2)(C), and here “the public” refers to children who are often unable to protect themselves.

None of this means that the Court will deny the motion for early termination. Thus far, the Court only knows what other people think about Mr. Seger, not why they think it.

The Court’s October 9, 2014 Order stands.

/s/ John A. Woodcock, Jr.
JOHN A. WOODCOCK, JR.
CHIEF UNITED STATES DISTRICT JUDGE

Dated this 10th day of October, 2014