

UNITED STATES OF AMERICA, Plaintiff - Appellee, v. JEREMY RANDOLPH MARTIN, Defendant - Appellant.

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

823 Fed. Appx. 225; 2020 U.S. App. LEXIS 31232

No. 20-6387

October 1, 2020, Decided

September 21, 2020, Submitted

Notice:

PLEASE REFER TO FEDERAL RULES OF APPELLATE PROCEDURE RULE 32.1 GOVERNING THE CITATION TO UNPUBLISHED OPINIONS.

Editorial Information: Subsequent History

Rehearing denied by, Rehearing denied by, En banc United States v. Martin, 2020 U.S. App. LEXIS 34846 (4th Cir., Nov. 3, 2020)

Editorial Information: Prior History

{2020 U.S. App. LEXIS 1}Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. (5:15-cr-00086-FL-1). Louise W. Flanagan, District Judge. United States v. Martin, 2016 U.S. Dist. LEXIS 51619 (E.D.N.C., Feb. 3, 2016)

Disposition:

AFFIRMED.

Counsel Jeremy Randolph Martin, Appellant, Pro se.

Judges: Before WILKINSON and NIEMEYER, Circuit Judges, and SHEDD, Senior Circuit Judge.

Opinion

{823 Fed. Appx. 225} PER CURIAM:

Jeremy Randolph Martin appeals the district court's order denying his motion to modify the conditions of his supervised release by eliminating two conditions. We have reviewed the record and find no reversible error. Accordingly, we affirm. See *United States v. McLeod*, __ F.3d ___, No. 18-6423, 2020 U.S. App. LEXIS 27396, 2020 WL 5049074, at *6 (4th Cir. Aug. 27, 2020) (holding that motion to modify conditions of supervised release under 18 U.S.C. § 3583(e)(2) "is impermissible [if] it rests on the factual and legal premises that existed at the time of [the defendant's] sentencing"). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED

APPENDIX A

CIRHOT

1

59214056

UNITED STATES DISTRICT COURT

FILED

Eastern District of North Carolina

FEB 11 2020

PETER A. MOORE, JR., CLERK
US DISTRICT COURT, EDNC
BY *[Signature]* DEP CLK

No. 5:15-CR-86-FL-1

UNITED STATES OF AMERICA

V.
JEREMY RANDOLPH MARTIN

Motion DENIED

MOTION TO MODIFY
CONDITIONS OF
PROBATION

This the 28th day of February, 2020.

(18 U.S.C. § 3563 (c);
Fed. R. Crim. P. 32.1 (c))

Relief Sought *[Signature: Louise W. Flanagan]*
LOUISE W. FLANAGAN, United States District Judge

Jeremy Randolph Martin, the defendant in this action, moves this court for an order modifying the terms and conditions of his probation by:

1. Eliminating the restriction preventing him from using or possessing a computer or other electronic communication device without his probation officer's prior approval or using the internet without same approval.
2. Eliminating the requirement that he allow the FBI to install monitoring software on all of his internet connected devices and to pay for same.

As established by the supporting Memorandum, these modifications are necessary because:

1. Pursuant to United States V. Holena 906 F.3d 288 (3rd Cir.) (2018) (holding that condition of supervised release requiring him not to possess or use computers or other electronic communication devices or to use the internet without his probation officer's approval were contradictory and swept too broadly, raising First Amendment concerns and depriving him of more liberty than was reasonably necessary to deter crime, protect the public, and rehabilitate defendant under 18 U.S.C. § 3583(d)(2),) courts can

R

APPENDIX B

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 20-6387
(5:15-cr-00086-FL-1)

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

JEREMY RANDOLPH MARTIN

Defendant - Appellant

ORDER

The court denies the petition for rehearing and rehearing en banc. No judge requested a poll under Fed. R. App. P. 35 on the petition for rehearing en banc.

Entered at the direction of the panel: Judge Wilkinson, Judge Niemeyer, and Senior Judge Shedd.

For the Court

/s/ Patricia S. Connor, Clerk

APPENDIX C