

APPENDIX

A Orders

1 THE HONORABLE JOHN C. COUGHENOUR
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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 UNITED STATES OF AMERICA,

11 Plaintiff,

12 v.
13 GEORGE VERKLER,

14 Defendant.

CASE NO. CR15-0041-JCC

ORDER

15 This matter comes before the Court on Defendant's motion for early termination of
16 supervised release (Dkt. No. 132). Having thoroughly considered the parties' briefing and the
17 relevant record, the Court finds oral argument unnecessary and hereby DENIES the motion for
18 the reasons explained herein.

19 **I. BACKGROUND**

20 In 2015, Defendant pleaded guilty to two counts of theft of government funds and two
21 counts of aggravated identity theft. (See Dkt. Nos. 17 at 1–2, 18 at 1, 19 at 1.) On August 4,
22 2015, the Court sentenced Defendant to 48 months of confinement followed by three years of
23 supervised release. (Dkt. No. 32.) The Court set Defendant's restitution at \$237,328.00. (*Id.*)

24 Defendant now moves for early termination of his supervised release period. (Dkt. No.
25 132.) Defendant's argument in support of his motion is brief: "Mr. Verkler has worked hard to
26 change his life and re-integrate himself into society. He presents no risk to the public and has

1 received punishment sufficient to deter him from committing future offenses. For these reasons,
 2 early termination of supervision would be appropriate." (Dkt. No. 132 at 2.) The Government
 3 and the Probation Office oppose Defendant's motion. (Dkt. No. 133.)

4 **II. DISCUSSION**

5 The Court may terminate a term of supervised release after the completion of one year
 6 and "if it is satisfied that such action is warranted by the conduct of the defendant released and
 7 the interest of justice." 18 U.S.C. § 3583(e)(1). In deciding whether early termination is
 8 appropriate, the Court must consider several factors, including the nature and circumstances of
 9 the offense, the history and characteristics of the defendant, the need to deter criminal conduct,
 10 the need to protect the public from further crimes, the need to provide the defendant with
 11 correctional treatment in the most effective manner, and the need to avoid disparity among
 12 similarly situated defendants. 18 U.S.C. § 3583(e) (citing to factors listed by 18 U.S.C. §
 13 3553(a)); *United States v. Emmett*, 749 F.3d 817, 820 (9th Cir. 2014).

14 The Court has considered the § 3553(a) factors in light of Defendant's case and
 15 concludes that early termination of supervised release is not warranted at this juncture. The Court
 16 emphasizes several factors. Defendant's underlying criminal conduct was serious: he defrauded
 17 the Washington State Employment Security Department and the Oregon Employment
 18 Department of at least \$237,328.00 by creating fictitious companies and submitting false claims
 19 for unemployment insurance benefits. (See Dkt. Nos. 28 at 2, 29 at 6–7.) Defendant currently
 20 "refuses to pay restitution" and "refuses to explore job opportunities recommended by his
 21 probation officer." (Dkt. No. 133 at 1.) And Defendant's history and characteristics further
 22 weigh against granting him early termination of supervised release: his conviction in this case
 23 was at least his second for serious financial crimes, (see Dkt. No. 28 at 3), and there is little
 24 evidence that Defendant has demonstrated remorse for his actions, (see Dkt. No. 133 at 2).
 25 Finally, maintaining Defendant's supervised release status will ensure that he continues to
 26 receive necessary mental health treatment. (See *id.* at 2–3.) Therefore, the Court finds that

1 Defendant's conduct since his release does not warrant early termination of supervised release
2 and that, in consideration of the 18 U.S.C. § 3553(a) factors, early termination is not in the
3 interests of justice.

4 **III. CONCLUSION**

5 For the foregoing reasons, Defendant's motion for early termination of supervised release
6 (Dkt. No. 132) is DENIED.

7 DATED this 14th day of April 2020.

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John C. Coughenour
UNITED STATES DISTRICT JUDGE

NOT FOR PUBLICATION

FILED

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

DEC 9 2020

**MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS**

UNITED STATES OF AMERICA,

No. 20-30097

Plaintiff-Appellee,

D.C. No. 2:15-cr-00041-JCC-1

v.

GEORGE VERKLER,

MEMORANDUM*

Defendant-Appellant.

**Appeal from the United States District Court
for the Western District of Washington
John C. Coughenour, District Judge, Presiding**

Submitted December 2, 2020**

Before: WALLACE, CLIFTON, and BRESS, Circuit Judges.

George Verkler appeals from the district court's order denying his motion for early termination of supervised release under 18 U.S.C. § 3583(e)(1). We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

The district court did not abuse its broad discretion in concluding that early

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

termination of supervised release was not in the interest of justice. *See* 18 U.S.C. § 3583(e)(1); *United States v. Emmett*, 749 F.3d 817, 819 (9th Cir. 2014). The record supports the district court's conclusion that Verkler failed to accept responsibility for his offense or make meaningful efforts towards restitution payments and employment, and the court properly relied on these factors as reasons to continue supervision. *See* 18 U.S.C. § 3583(e). Further, the district court did not err by failing to hold a hearing on the motion. Verkler did not request a hearing in the district court and he has not identified on appeal any information he would have provided at a hearing that he did not provide in his written motion. *See United States v. Weber*, 451 F.3d 552, 559 n.9 (9th Cir. 2006) (it is the defendant's burden to demonstrate that early termination is justified).

The motion of appellant's appointed counsel, Harry Williams IV, Esq., to be relieved as counsel of record is granted.

Appellant's pro se request for an effective attorney is treated as a motion for appointment of substitute counsel. So treated, the motion is denied because nothing in Verkler's motion, or in the pro se briefs he provided this court, warrants appointing counsel.

AFFIRMED.

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

JAN 04 2021

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

GEORGE VERKLER,

Defendant - Appellant.

No. 20-30097

D.C. No. 2:15-cr-00041-JCC-1
U.S. District Court for Western
Washington, Seattle

MANDATE

The judgment of this Court, entered December 09, 2020, takes effect this date.

This constitutes the formal mandate of this Court issued pursuant to Rule 41(a) of the Federal Rules of Appellate Procedure.

FOR THE COURT:

MOLLY C. DWYER
CLERK OF COURT

By: Nixon Antonio Callejas Morales
Deputy Clerk
Ninth Circuit Rule 27-7

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

APR 2 2021

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v.

GEORGE VERKLER,

Defendant-Appellant.

No. 20-30097

D.C. No. 2:15-cr-00041-JCC-1
Western District of Washington,
Seattle

ORDER

Before: WALLACE, CLIFTON, and BRESS, Circuit Judges.

Verkler's request for publication of the memorandum disposition (Docket Entry No. 37) is denied.

Verkler's motion to recall the mandate (Docket Entry No. 39) is also denied.

Although Verkler filed a timely notice that he would petition for rehearing, he did not subsequently file a petition for rehearing identifying any error in the panel's decision. Thus, there are no "extraordinary circumstances" to support recalling the mandate. *See Calderon v. Thompson*, 523 U.S. 538, 550 (1998). } false
see #65

No further filings will be entertained in this closed case.

APPENDIX

B Judgment

NOT FOR PUBLICATION

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UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

DEC 9 2020

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

No. 20-30097

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The district court did not abuse its broad discretion in concluding that early

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AFFIRMED.