

No. _____

IN THE
Supreme Court of the United States

TIMOTHY L. RICHARDS,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

On Petition for a Writ of Certiorari to the
United States Court of Appeals
for the Seventh Circuit

APPENDIX

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In the
United States Court of Appeals
For the Seventh Circuit

No. 25-1357

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

TIMOTHY L. RICHARDS,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Indiana, Fort Wayne Division.
No. 1:10CR6-001 – **Holly A. Brady**, *Chief Judge*.

ARGUED NOVEMBER 18, 2025 — DECIDED DECEMBER 8, 2025

Before HAMILTON, ST. EVE, and KIRSCH, *Circuit Judges*.

ST. EVE, *Circuit Judge*. After Timothy Richards violated numerous conditions of his supervised release, the district court sentenced him to 36 months' imprisonment. Richards appeals his sentence, arguing the district court erred by increasing the length of his sentence for the purpose of rehabilitation. *Tapia v. United States*, 564 U.S. 319 (2011). We affirm.

I. Background

In 2012, the district court sentenced Richards to 180 months' imprisonment and six years of supervised release following his convictions for drug and firearm offenses. Richards completed his term of imprisonment and began supervised release in 2022. His conditions of supervised release included keeping lawful employment, notifying his probation officer of changes of address or employment, and not possessing controlled substances. Richards did not comply with these conditions. In May 2024, the homeless shelter where Richards resided suspended him, but Richards failed to notify his probation officer of this change in residence. Further, he affirmatively misrepresented his place of residence in July 2024. That same month, Richards left his job without finding another. Yet he did not notify his probation officer of his change in employment status. Richards also failed multiple drug tests. Richards's probation officer petitioned to revoke his supervised release in November 2024.

Richards admitted these violations at a February 2025 revocation hearing. The district court determined that the applicable Guidelines range for these violations combined with Richards's criminal history was 18 to 24 months' imprisonment. The government requested that the court sentence Richards to 30 months' imprisonment with supervised release upon completion. Richards requested 18 months' imprisonment without additional supervised release, contending that the violations were not particularly serious. While considering Richards's request, the district court said it was "struggling" with the fact that Richards had not satisfied his original sentence and "he really has four years of supervised release that he hasn't satisfied." Both the government and Richards's

counsel emphasized the futility of additional supervision; Richards would continue to violate the conditions because he wanted to live his life independently—even if it meant being homeless and jobless. Richards explained he would rather return to prison than continue under his probation officer’s supervision.

The district court revoked Richards’s supervised release and imposed a 36-month sentence. The district court explained it came to this decision by considering the “seriousness of the admitted violations, the defendant’s personal history and characteristics, the defendant’s criminal history and the term of imprisonment and term of supervised release initially imposed by the Court in this case.” It also recognized “the defendant’s stated intention to not comply with the further term of supervised release if the Court were to impose one.” The district court said, “a sentence of 36 months of imprisonment shall be imposed to hold the defendant accountable for the violations.”

The district court continued:

The sentence is imposed for the following reasons: While it is outside the guideline range, the Court nonetheless finds that it provides the defendant with needed correctional treatment in the most effective manner, and also adequately takes into account the history and characteristics of the defendant. Therefore, it is ordered that the defendant’s term of supervision is revoked and the defendant is hereby committed to the custody of the Bureau of Prisons to be imprisoned for a term of 36 months of

imprisonment to hold the defendant accountable for the violations.

After recommending that the Bureau of Prisons designate a specific facility for Richards and give him the opportunity to participate in the Residential Drug Abuse Program, the district court added: “It is ordered that upon release from imprisonment ... the defendant shall be discharged from any further term of supervised release.”

II. Discussion

On appeal, Richards argues that the district court committed a *Tapia* error because it primarily focused on rehabilitation when sentencing him to 36 months’ imprisonment. Although the parties disagree on the proper standard of review, the district court did not err under either standard, so we need not decide that question.*

* We recognize that we have not always applied a consistent standard of review in *Tapia* cases. Compare *United States v. Shaw*, 39 F.4th 450, 456 (7th Cir. 2022) (applying de novo review), and *United States v. Wilcher*, 91 F.4th 864, 869–70 (7th Cir. 2024) (same), with *United States v. Long*, 79 F.4th 882, 885 (7th Cir. 2023) (applying plain error review), and *United States v. Kopp*, 922 F.3d 337, 340, 342 n.2 (7th Cir. 2019) (same).

While we leave the opportunity to reconcile these cases for another day, we address the government’s contention that the Supreme Court’s dicta in *Esteras v. United States*, 606 U.S. 185, 202–03 (2025), abrogates our opinions in *United States v. Wood*, 31 F.4th 593, 598 (7th Cir. 2022), and *United States v. Pennington*, 908 F.3d 234, 238 (7th Cir. 2018). Because the Supreme Court did not discuss Federal Rule of Criminal Procedure 51(a) in *Esteras*, we previously rejected this argument, see *United States v. Stewart*, 148 F.4th 501, 509 n.3 (7th Cir. 2025), and do so again here.

A *Tapia* error occurs when a district court focuses “exclusively or disproportionately on rehabilitation in deciding . . . how long a [prison] term should be.” *Long*, 79 F.4th at 889; *see also* 18 U.S.C. § 3582(a) (“[I]mprisonment is not an appropriate means of promoting correction and rehabilitation.”). While a district court can urge the Bureau of Prisons to place a defendant in a prison-treatment program, *United States v. Lucas*, 670 F.3d 784, 795 (7th Cir. 2012), it cannot make such placement the driving force behind the length of the sentence. *See Shaw*, 39 F.4th at 459.

Richards asserts that the district court committed a *Tapia* error by lengthening his sentence 12 months over the Guidelines range. Richards supports his argument with the district court’s statement that it was imposing a sentence outside the Guidelines range because “it provides the defendant with needed correctional treatment.” But Richards mischaracterizes the *Tapia* inquiry. For a district court to lengthen a defendant’s sentence improperly for the purpose of rehabilitation, there must be an “indication that the district court chose the length of the sentence based upon the greater opportunities for rehabilitation a longer prison sentence allowed.” *Lucas*, 670 F.3d at 795. In other words, the sentence must have been longer than the one the district court would have ordered had rehabilitation not driven it. *See Kopp*, 922 F.3d at 342–43 (changing sentence from 18 to 20 months so the defendant could participate in a drug abuse program). A district court can stay within the Guidelines and still make this error, *see id.* at 340, so a sentence over the Guidelines range alone does not establish a *Tapia* error. And here, Richards provides no such comparison to what the district court would have otherwise ordered.

Richards maintains that his supervised release violations were not serious, so the district court could only have considered rehabilitation when setting his sentence at 36 months. But as the government correctly notes, the district court considered a myriad of grounds for Richards's sentence: Richards's personal history and characteristics; his criminal history and original sentence; his stated refusal to comply with the conditions of supervised release; and his numerous violations of the conditions of his supervised release. And even if the violations were not serious, there were many.

Reviewing the entirety of the sentencing transcript, *see United States v. Durham*, 967 F.3d 575, 579–80 (7th Cir. 2020), suggests another reason for the length of Richards's sentence: the district court, seeing it was fruitless for Richards to remain on supervised release, chose the above-Guidelines sentence because it was concerned about Richards not completing his original sentence. Richards had served only two of the six years of supervised release in his original sentence. The district court pointed out that he had not satisfied the original sentence and “he really has four years of supervised release that he hasn't satisfied.” It was struggling with that fact. It would make sense then for the district court to make this compromise: there was no supervised release after Richards's term of imprisonment—as Richards desired—but Richards would serve three years' imprisonment, meaning he would nearly satisfy his original sentence.

While it is true the district court also reasoned the sentence “provides the defendant with needed correctional treatment in the most effective manner,” this phrase alone—a restatement of the rehabilitation factor of 18 U.S.C. § 3553(a)—does not show, as Richards suggests, that the district court

disproportionately focused on rehabilitation when setting the length of Richards's sentence. The district court was required to consider rehabilitation before revoking Richards's supervision and imposing a sentence. *See* 18 U.S.C. § 3553(a); *Shaw*, 39 F.4th at 459. It did so properly by stating this factor and recommending that Richards participate in prison programs. *See Lucas*, 670 F.3d at 795.

* * *

The judgment of the district court is

AFFIRMED.

United States Court of Appeals
For the Seventh Circuit
Chicago, Illinois 60604

February 4, 2026

Before

DAVID F. HAMILTON, *Circuit Judge*

AMY J. ST. EVE, *Circuit Judge*

THOMAS L. KIRSCH II, *Circuit Judge*

No. 25-1357

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

TIMOTHY L. RICHARDS,
Defendant-Appellant.

Appeal from the United States District
Court for the Northern District of
Indiana, Fort Wayne Division.

No. 1:10-cr-00006-HAB-SLC-1

Holly A. Brady,
Chief Judge.

ORDER

On December 19, 2025, the defendant-appellant filed a petition for rehearing and rehearing en banc, and on January 20, 2026, the plaintiff-appellee filed an answer to the petition. No judge in regular active service has requested a vote on the petition for rehearing en banc* and the judges on the original panel have voted to deny rehearing. It is, therefore, **ORDERED** that the petition for rehearing and rehearing en banc is **DENIED**.

* Circuit Judges Doris L. Pryor and Rebecca Taibleson did not participate in the consideration of this petition for rehearing en banc.

THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION

UNITED STATES of AMERICA,)
Plaintiff,)
)
) CAUSE NO: 1:10-cr-6
v.)
)
TIMOTHY RICHARDS,)
Defendant.)

TRANSCRIPT OF FINAL REVOCATION SENTENCING HEARING HELD
FEBRUARY 11, 2025, BEFORE THE
HONORABLE HOLLY A. BRADY, UNITED STATES
DISTRICT COURT JUDGE

APPEARANCES:

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FOR THE DEFENDANT: MICHELLE KRAUS, ESQ.
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ALSO PRESENT: The Defendant in person
Gregory Coleman, USPO

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1 (Whereupon, the following proceedings were held on
2 February 11, 2025, in open court; the defendant appearing in
3 person and with his counsel:)

4 **THE CLERK:** All rise. The Honorable Holly A. Brady
5 presiding.

6 **THE COURT:** Please be seated.

7 We're on the record now in the matter of the United States
8 of America versus Timothy Richards in case number 1:10-cr-6.

9 Let the record reflect that the government is being
10 represented by Assistant United States Attorneys Teresa
11 Ashcraft and Dawn Ransome. They are accompanied by United
12 States Probation Officer Gregory Coleman. The defendant is
13 present in person and with his counsel, Michelle Kraus.

14 We're here today for a final hearing with respect to the
15 revocation of Mr. Richards' term of supervised release.

16 Mr. Richards, during this hearing, I'll need to ask you
17 some questions, and you may also wish to make a statement on
18 your own behalf. So before we begin, I would ask that you
19 please stand, raise your right hand, and be sworn.

20 (Whereupon, the Defendant was administered the oath.)

21 **THE DEFENDANT:** Yes.

22 **THE COURT:** Please be seated. Mr. Richards, do you
23 understand that you're now under oath, and if you answer any
24 of my questions falsely, or if you knowingly make any false
25 statements, your false answers or false statements could later

1 be used against you in another prosecution for perjury?

2 **THE DEFENDANT:** Yes.

3 **THE COURT:** Do you understand that, sir?

4 **THE DEFENDANT:** Yes.

5 **THE COURT:** What's your date of birth?

6 **THE DEFENDANT:** June 3rd, 1969.

7 **THE COURT:** So you're 55?

8 **THE DEFENDANT:** Yes.

9 **THE COURT:** How far did you go in school?

10 **THE DEFENDANT:** Uh, graduated high school.

11 **THE COURT:** Okay. Are you able to speak, read, write
12 and understand the English language?

13 **THE DEFENDANT:** Yes.

14 **THE COURT:** Have you been treated recently for any
15 mental illness or addiction to alcohol or narcotic drugs of
16 any kind?

17 **THE DEFENDANT:** No, not recently.

18 **THE COURT:** Okay. When were you treated -- when were
19 you most recently treated?

20 **THE DEFENDANT:** Uh, I believe it was '23.

21 **THE COURT:** 2023?

22 **THE DEFENDANT:** Mmm-mm.

23 **THE COURT:** Okay. In the past 24 hours, have you
24 taken any drugs, pills or prescription medication or had any
25 alcoholic beverages to drink?

1 **THE DEFENDANT:** No, ma'am.

2 **THE COURT:** Is there any reason you cannot understand
3 or participate fully in today's proceedings?

4 **THE DEFENDANT:** Nope.

5 **THE COURT:** Mr. Richards, did you receive a written
6 copy of the summary report of violations prepared by Officer
7 Coleman and filed on December 2nd, 2024, at docket entry 295,
8 detailing the alleged violations of your conditions of
9 supervision?

10 **THE DEFENDANT:** Yes.

11 **THE COURT:** Have you fully discussed the alleged
12 violations and the case in general with Ms. Kraus?

13 **THE DEFENDANT:** Yes.

14 **THE COURT:** Do you want me to read into the record
15 the alleged violations or do you waive the reading?

16 **THE DEFENDANT:** Uh, you can read them, ma'am.

17 **THE COURT:** Okay.

18 **ATTORNEY MICHELLE KRAUS:** You want her to read these?
19 This is what you and I just talked about, or do you want her
20 to read them, or do you think you understand them sufficiently
21 to make an admission?

22 **THE DEFENDANT:** She can read them.

23 **ATTORNEY MICHELLE KRAUS:** Okay.

24 **THE COURT:** You want me to read them?

25 Okay. The summary report of violations provides the

1 defendant is alleged to have violated the following conditions
2 of release: Mandatory condition number 1, which is a new
3 allegation, the defendant shall not possess a controlled
4 substance, the defendant shall refrain from any unlawful use
5 of a controlled substance, the defendant shall submit to one
6 drug test within 15 days of release from imprisonment, and at
7 least two periodic tests thereafter as determined by the
8 Court.

9 Violation number 1 provides that on November 6, 2024, the
10 defendant signed an admission form admitting to smoking two
11 blunts containing marijuana on or about November 6, 2024. The
12 previous allegations contained in the summary report provide
13 mandatory condition number 1, the defendant shall not possess
14 a controlled substance, the defendant shall refrain from any
15 unlawful use of a controlled substance, the defendant shall
16 submit to one drug test within 15 days of release from
17 imprisonment, and at least two periodic tests thereafter as
18 determined by the Court.

19 Violation number 1 provides that on July 31st, 2024, this
20 officer collected a urine sample from the defendant, which
21 yielded a positive result for the presence of marijuana. The
22 defendant's (sic) admitted to smoking approximately three
23 joints containing marijuana on or about July 29th, 2024.

24 Standard condition number five provides that the defendant
25 shall work regularly at a lawful occupation, unless excused by

1 the Probation Officer, for schooling, training or other
2 acceptable reasons.

3 Violation number 1 provides that the defendant has failed
4 to maintain lawful employment. The defendant was last
5 employed by Labor Works on July 2nd, 2024, and has not
6 provided any updated employment information.

7 Standard condition number six provides the defendant shall
8 notify the Probation Officer at least 10 days prior to any
9 change of residence or employment.

10 Violation number 1 provides that on July 31st, 2024, the
11 defendant advised he was residing at the Fort Wayne Rescue
12 Mission. On September 24th, 2024, the Fort Wayne Rescue
13 Mission staff advised the defendant was involved in a physical
14 altercation with another resident on May 8th, 2024 and is
15 ineligible for all services until May 8th, 2026. The
16 defendant has failed to notify this officer of any change in
17 his residence.

18 Mr. Richards, do you fully understand what you've been
19 charged with having done or not having done?

20 **THE DEFENDANT:** Yes, ma'am.

21 **THE COURT:** Are you in any way dissatisfied with the
22 counsel, advice, and representation given to you by Ms. Kraus
23 in this case?

24 **THE DEFENDANT:** No, I'm not.

25 **THE COURT:** Mr. Richards, if I find that you violated

1 your conditions of supervised release, I'm req -- rather, I'm
2 authorized by law to do one of the following: One, I can
3 continue your term of supervision with or without modifying or
4 enlarging the conditions of your supervision; or two, I can
5 extend your term of supervision, if less than the authorized
6 maximum term of supervision was previously imposed; or three,
7 I can revoke your term of supervision and impose a term of
8 imprisonment of not more than five years, without giving you
9 credit for the time previously served on post-release
10 supervision and add a new term of supervised release of not
11 more than five years, less any term of imprisonment imposed
12 based upon the revocation.

13 Do you understand that, sir?

14 **THE DEFENDANT:** Yes.

15 **THE COURT:** I'm also generally required by law to
16 revoke your term of supervision and impose a term of
17 imprisonment if I find, one, that you possessed a firearm,
18 ammunition, destructive device or any other dangerous weapon;
19 two, you possessed a controlled substance; three, you refused
20 to comply with required drug testing; or four, as part of your
21 required drug testing, you tested positive for illegal
22 controlled substance more than three times over the course of
23 one year.

24 Do you understand that, sir?

25 **THE DEFENDANT:** Yes, ma'am.

1 **THE COURT:** Mr. Richards, do you admit or deny the
2 alleged violations of the conditions of your supervision
3 described in the summary report?

4 **THE DEFENDANT:** I admit.

5 **THE COURT:** Mr. Richards, in a moment, I'm going to
6 ask Ms. Ashcraft to please summarize for us the material facts
7 showing the admitted violations of your supervision, and I'd
8 ask that you listen and pay very close attention to what she
9 says, because when she's done, I'm going to ask you if you
10 agree or disagree with what she says.

11 Can you do that for me?

12 **THE DEFENDANT:** Yes.

13 **THE COURT:** Ms. Ashcraft, can you please summarize
14 the factual basis showing the admitted violations?

15 **ATTORNEY TERESA ASHCRAFT:** Yes, Judge. The
16 government would present evidence that he was under the terms
17 of condition of supervised release, including mandatory
18 condition one, that he not possess a controlled substance and
19 refrain from unlawful use of a controlled substance; a
20 standard condition number five that he work regularly at a
21 lawful occupation, unless excused by Probation Officer for
22 schooling, training or other acceptable reasons; and lastly,
23 standard condition number six that he notify the Probation
24 Officer at least 10 days prior to any change of residence or
25 employment.

1 The government would present evidence through United
2 States Probation Officer Gregory Coleman, as well as admission
3 documents to show that the defendant violated the terms of his
4 supervised release and that on November 6, the defendant
5 signed an admission form admitting to smoking two blunts
6 containing marijuana on or about November 6, 2024 and violated
7 that same condition previously when he submitted a urine
8 sample on July 31st, 2024, which yielded a positive result for
9 the presence of marijuana. And he admitted to our Probation
10 Officer to smoking approximately three joints containing
11 marijuana on or about July 29th, 2024, both being violations
12 of mandatory condition number 1.

13 Furthermore, there's a violation of lawful occupation in
14 that he was to maintain employment. He was last employed by
15 Labor Works on July 2nd, 2024 and had not provided the United
16 States Probation Department with any updated employment
17 information since that time, which would be a violation of
18 standard condition number 5.

19 And lastly, for violation of condition number 6, that on
20 July 31st, 2024, the defendant advised Probation Officer
21 Coleman that he was residing at the Fort Wayne Rescue Mission.
22 However, on the 24th day of September, last year, the Fort
23 Wayne Rescue Mission staff advised Probation Officer Coleman
24 that the defendant was involved in an physical altercation
25 back on May 8th of 2024 and had not been residing there and

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1 would not be eligible for any services until May 8th of 2026.
2 And that's the totality of the evidence the government would
3 submit.

4 **THE COURT:** Thank you, Ms. Ashcraft.

5 **ATTORNEY TERESA ASHCRAFT:** Thank enough.

6 **THE COURT:** Mr. Richards, did you hear what Ms.
7 Ashcraft just said?

8 **THE DEFENDANT:** Yes, I did.

9 **THE COURT:** Do you agree or disagree with what she
10 said?

11 **THE DEFENDANT:** I agree.

12 **THE COURT:** Is it all true and correct?

13 **THE DEFENDANT:** It is.

14 **THE COURT:** I'm reasonably satisfied and find by a
15 preponderance of the evidence that the admitted violations
16 have been proven. Therefore, the Clerk is ordered to enter
17 judgment that the defendant is guilty of committing the
18 admitted violations of the conditions of his supervision.

19 I further find these Grade B violations combined with the
20 defendant's criminal history category of five produce an
21 advisory guideline sentencing range of 18 to 24 months of
22 imprisonment.

23 Ms. Ashcraft, do you have any argument you wish to present
24 with respect to an appropriate sentence based upon the
25 admitted violations?

1 **ATTORNEY TERESA ASHCRAFT:** Yes, Judge, I do.

2 **THE COURT:** Go ahead.

3 **ATTORNEY TERESA ASHCRAFT:** It would be a lot easier
4 if Mr. Richards' violations were violations where he's picked
5 up new offenses. I would have a better guidance to give this
6 Court.

7 These are the types of cases that leave me scratching my
8 head a little bit more, because he is violating probation.
9 His history and looking through his pretrial services report,
10 it's a pattern of behavior that he struggles with the terms of
11 probation or supervised release, and this case is no
12 different.

13 However, I understand and appreciate these aren't the most
14 egregious violations. And so trying to weigh that balance
15 when you're looking at the 3553 factors of what's appropriate
16 for this defendant in this situation.

17 And I've had a few conversations with Probation Officer
18 Coleman on this. I don't want to put words in his mouth, I
19 think that's the temperature with him, too, what do we do in
20 this situation. The easy thing would be to cut him loose,
21 have him serve a term of imprisonment and say we're done with
22 you.

23 But I hesitate to ever make that recommendation,
24 especially on a first violation, because the defendant's
25 homeless, and has a pattern of substance abuse, including in

1 his past, he has a pattern of substance abuse that uses
2 cocaine. And while we don't have those violations here, I
3 worry that if left to his own devices without a period of
4 supervised release on the back end that we could be back in
5 that same boat.

6 And when you couple that with homelessness, it's just a
7 matter of time if we cut him loose with just a period of
8 imprisonment that we're not looking at more violations of
9 criminal law.

10 And also, I don't think our Probation Department is ready
11 to give up on him. I know Mr. Richards might be fed up with
12 being under what a lot of people like to call being under
13 papers, I think there's a lot to be said about what our
14 Probation Department can do for someone, including helping him
15 use the skills and trades he's used in the past and get him
16 into gainful employment. Because statistically speaking if we
17 get him into gainful employment, get him into substance abuse
18 treatment, and get him stable housing, then he's more likely
19 to be a productive member of society.

20 But I don't know if Mr. Richards wants that. And so it
21 leaves you scratching your head. I don't want to advocate for
22 a sentence that says it's okay when you just don't want to be
23 under supervision, come in, screw up royally and we'll just be
24 done with you, because I think it sets the wrong message. And
25 this was a hefty period of supervised release that

1 Mr. Richards was under and he continues to be under until the
2 middle or end of 2028.

3 I think what Probation Officer Coleman is recommending is
4 appropriate. I think it balances out the temperature of
5 getting him some help in a more controlled setting and then
6 having a shorter term of supervised release on the back end
7 that can hopefully set him up.

8 So I'm in agreement with the recommendation. I understand
9 that he may come in and advocate for being done, because we're
10 setting him up to fail. My counter argument to setting him up
11 to fail is if we don't have a period of supervised release on
12 the back end, then I think the government is absolutely
13 setting him up to fail. Because he's going to come out,
14 history says he uses immediately, he's going to be homeless
15 and he hasn't had employment since last year. I just don't
16 see how he would be a productive member of our community,
17 which is ultimately what we like to see.

18 So for those reasons and the reasons Officer Coleman has
19 laid out in his summary report of violations, I would asking
20 for 30 years months revoked, with a term of supervised release
21 on the back end, Judge.

22 **THE COURT:** Ms. Kraus, what are your thoughts?

23 **ATTORNEY MICHELLE KRAUS:** Well, my thoughts are we
24 are absolutely going to set him up to fail if you put him on
25 supervised release, because he doesn't want to be there and

1 he's not going to follow the rules. And he'll tell you right
2 now he doesn't want to be in supervised release, and if you
3 give it to him, he's going to break those rules. So we're
4 going to be right back here, everybody is going to be more
5 frustrated because we're trying to help him, come on, Timothy,
6 we're trying to help you. He doesn't want the help. He
7 doesn't want it. You know, and being homeless and being
8 unemployed are not illegal.

9 There's nothing wrong with him. It's not way you or I or
10 Mr. Coleman would choose to live our lives, but there's
11 nothing illegal about him choosing to live on the street. He
12 has a brother who is in the courtroom today. He has a pretty
13 extended family. He had a brother who died very recently, and
14 we were able to make arrangements for Timothy to view the
15 funeral. You know, there were a lot of family members there.
16 Mr. Doolin had the opportunity to speak with some of them.
17 But Tim wants to do what he wants to do.

18 The nature of the violations are pretty de minimal, right?
19 He was smoking some weed. I don't know how many states where
20 that's legal, but not here yet, not federally, but a matter of
21 time before I think that that happens.

22 You know, does that mean that he's going to lead to -- you
23 know, he's got a history of being a crack addict, he's got a
24 history of using cocaine. Well, he's also in his 50's now.
25 He didn't test positive for anything other than marijuana for

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1 the past two years while he was under supervision. So I don't
2 think we necessarily have to say that the sky is falling,
3 Chicken Little. That, you know, you're smoking marijuana,
4 it's inevitable you're going to break the law. That's what
5 she's arguing. It's inevitable he's going to break the law if
6 we don't have him on supervised release.

7 He didn't break the law, except smoking marijuana over the
8 course of the past two years. He didn't maintain employment
9 and he didn't maintain housing, but we all feel like life
10 would be easier and better for Mr. Richards if he had those
11 things, but his choice is to be on the street. That is his
12 choice.

13 And, you know, he has skills. He's worked on cars his
14 entire life. He learned at a very young age from his father,
15 from his grandfather, his brother's got an automotive place.
16 He has skills where he can go work and yet, you know, he just
17 kind of floats through life, and does it his way.

18 And, again, his way is not the way I would choose or the
19 way that the majority of people would choose, but being
20 homeless and being unemployed are not illegal.

21 So I think it is an exercise of futility to put him back
22 on supervised release, because he's being honest with all of
23 us. I don't want to live in a halfway house. You know, why
24 take up a bed that he's going to have for a week when somebody
25 else who probably wants that bed is going to have to wait

1 until he violates that term of supervision.

2 So rather than have him fail and then he knows that he's
3 got to go back, you know, then at that point you have your
4 second violation, you got to send them back to the BOP, and
5 because he chooses to be homeless.

6 So while it's frustrating to us. You know, Mr. Coleman is
7 a heck of a caring guy, works hard, tried to make this work
8 out with Timothy, but Tim doesn't want -- he doesn't want the
9 help. He doesn't want it. So there has to be a consequence
10 to him violating his terms of supervised release.

11 I think sentencing range is 18 to 24 months. But the
12 recommendation is for 30. So it's above that plus some
13 supervision because he smoked marijuana and so that seems to
14 me to be excessive.

15 So I would ask the Court to consider sentencing him to a
16 period of 18 months, the low end of his guideline
17 recommendation. You know, he has taken responsibility. He
18 was ready to take responsibility at the last hearing. I was
19 the one who wanted to move it to try to get some more
20 mitigation on his behalf. And Mr. Doolin, he reached out to
21 some family members and we just didn't hear back, which kind
22 of goes with -- maybe that's why Tim chooses to be what he is,
23 you know, and to float along and do what he wants to do. But
24 18 months reflects the seriousness of the reason why we are
25 here, the violation --

1 **THE COURT:** And with respect to that, you're right,
2 these are not particularly serious violations, but he hasn't
3 satisfied the sentence that Judge Springmann gave him. He
4 satisfied his term of imprisonment, but then he had six years
5 of supervised release to serve and he was only on it for about
6 two. So he really has four years of supervised release that
7 he hasn't satisfied.

8 So, you know, that's what I'm struggling with here is to
9 say hey, low end, that's enough here. I -- low end and no
10 supervised release? I mean --

11 **ATTORNEY MICHELLE KRAUS:** I struggle with that as
12 well, Judge, but I'm also just trying to be pragmatic, right,
13 that if you give him more than that, you know, let's say you
14 give him the 24 months or let's say you go above the
15 guidelines and you give him the 30 months that is recommended
16 in the recommendation and no supervised release, that's
17 certainly punishes him for what he has done, but then what,
18 right? So we're going to house him and he's going to sit in
19 the BOP for 30 months, we're all going to pay for that. He'll
20 do his programming or not -- he probably won't do the
21 programming. He has no desire to be in a halfway house when
22 he gets out of the Bureau of Prisons. He just wants to come
23 out and hopefully work, if that's what he can do, and then do
24 what he's going to do.

25 And so, you know, how you balance that -- I certainly

1 understand that, in the big scheme of things, he had the six
2 year sentence to satisfy, he only satisfied two of it. But in
3 going forward, you know, what are the -- what are the costs
4 and benefits of keeping him in prison for any longer than 18
5 months? Clearly his punishment is to sit in prison for
6 however long you want him to sit in prison for. He'll go and
7 do his time, he'll come out. I strongly urge you not to put
8 him on supervised release, just because it's not going to make
9 a difference for him.

10 And, you know, our efforts and the probation efforts are
11 better spent on somebody who wants that help. And, you know,
12 I'm not saying he's a bad man. He's not a bad man. He's just
13 somebody who wants to do life his own way, and the supervision
14 is just -- he's just not going to comply with it is the
15 reality.

16 And he's not -- you know, you can look at how soft
17 spoken -- he's not snubbing his nose at the Court's authority.
18 He's just resigned as to who he is and what he can expect of
19 himself. And to be honest, he's being very honest with the
20 Court what you can expect from him in the future. It's just
21 the way he is.

22 So, you know, whatever amount of time you think is
23 appropriate, he's going to go serve that time. Again, I don't
24 know how much programming he's going to get himself into when
25 he gets there. But when he gets back out, you know, he'll

1 have some family members to fall back on, if that's what he
2 wants to do. But if he's a loaner, he's just going to go back
3 and living on the streets again. That's because that's what
4 he wants to do. But there's nothing illegal about him doing
5 that.

6 **THE COURT:** Thank you, Mrs. Kraus. I appreciate your
7 honesty. Officer Coleman, what are your thoughts? I mean,
8 why would we use the precious resources of a Probation Officer
9 for somebody who is unwilling to engage with you?

10 **PROBATION OFFICER COLEMAN:** I think the one thing I
11 look at is from the first -- up until that June -- that first
12 positive drug test, he submitted six negative samples. He was
13 going to his treatment at the Bowen Center as he was supposed
14 even before he started supervised release. He was working at
15 Take Five in Michigan City. So all of that shows me he can
16 and is able to be successful. It's just he has to want to be
17 successful. It's not that he's not unable to. And I think he
18 has it in him to be successful.

19 **THE COURT:** I mean, he's got a great skill.

20 **PROBATION OFFICER COLEMAN:** And even when he started
21 his supervised release, I mean, he had the goal of getting his
22 ASE automotive certification. He went out to Ivy Tech,
23 navigated FAFSA process all on his own, got approved for
24 financial aid and was taking courses. Those aren't things we
25 see people on supervised release do all the time. So for him

1 to do those, test negative, it shows me he is able and has the
2 ability to follow the conditions of the Court and live a
3 better life. He has to want that for himself. And I think he
4 has periods of time he does want better for himself.

5 And I think unfortunately a lot of people like himself do
6 see that Hey, this is really hard out in the real world. It's
7 a lot easier for me to go to prison where somebody is telling
8 me what to do every minute of the day, what time to wake up,
9 what time I can eat, when I can go to the bathroom, when I can
10 shower, when I can call home. But it's when I have to come
11 home to the real world that I struggle and I think that's
12 maybe the position Mr. Richards may be in.

13 **THE COURT:** Thank you, Mr. or Officer Coleman. Okay.

14 Ms. Kraus, will you and Mr. Richards please approach the
15 podium.

16 **ATTORNEY MICHELLE KRAUS:** You and I can stand up here
17 now.

18 (Whereupon, Attorney Kraus and the defendant approach the
19 podium.)

20 **THE COURT:** Mr. Richards, do you wish to make any
21 statement in mitigation of punishment?

22 **THE DEFENDANT:** No.

23 **THE COURT:** What are your thoughts? I mean, Officer
24 Coleman's report kind of goes through and I think Ms. Kraus
25 supports it. You kind of decide what you're going to do and

1 nobody tells you what you're going to do. Is that accurate?

2 **THE DEFENDANT:** Pretty much so.

3 **THE COURT:** And so you would rather spend time at the
4 BOP than work with the Probation Officer to see if we can get
5 you on the right track?

6 **THE DEFENDANT:** Yes.

7 **THE COURT:** Okay. I appreciate your honesty. I
8 think that's an unfortunate decision on your part, but having
9 considered the seriousness of the admitted violations, the
10 defendant's personal history and characteristics, the
11 defendant's criminal history and the term of imprisonment and
12 term of supervised release initially imposed by the Court in
13 this case, and given the defendant's stated intention to not
14 comply with the further term of supervised release if the
15 Court were to impose one, and having considered the arguments
16 of the parties and the statements of the Probation Officer and
17 all of the relevant factors set forth in 18 U.S.C. Section
18 3553(a), I find that the defendant's term of supervision
19 should be revoked and a sentence of 36 months of imprisonment
20 shall be imposed to hold the defendant accountable for the
21 violations.

22 The sentence is imposed for the following reasons: While
23 it is outside the guideline range, the Court nonetheless finds
24 that it provides the defendant with needed correctional
25 treatment in the most effective manner, and also adequately

1 takes into account the history and characteristics of the
2 defendant.

3 Therefore, it is ordered that the defendant's term of
4 supervision is revoked and the defendant is hereby committed
5 to the custody of the Bureau of Prisons to be imprisoned for a
6 term of 36 months of imprisonment to hold the defendant
7 accountable for the violations.

8 Ms. Kraus, does the defendant have any requests of the
9 Court with respect to recommendations for placement or
10 programming?

11 **ATTORNEY MICHELLE KRAUS:** Is there any place you want
12 to be? Were you up at Milan before? You want to go back?

13 **THE DEFENDANT:** Yeah.

14 **ATTORNEY MICHELLE KRAUS:** Milan, please.

15 **THE COURT:** Okay. The Court will recommend that the
16 BOP attempt to designate the defendant to the Milan, Michigan
17 facility to allow friends and family to visit him.

18 The Court will recommend that the defendant be given the
19 opportunity to participate in any -- in the Residential Drug
20 Abuse Program or other programming to address any addiction
21 issues.

22 The defendant will also be recommended for consideration
23 for participation in the recidivism reduction programs
24 implemented by the BOP under the First Step Act.

25 It is ordered that upon release from imprisonment by the

1 BOP, the defendant shall be discharged from any further term
2 of supervised release.

3 The defendant is -- if the defendant has not done so, he
4 is again ordered to pay all financial objections under the
5 same terms previously imposed and ordered by this Court in its
6 judgment entered on September 5th, 2012.

7 Ms. Ashcraft, do you know of any reason why the sentence
8 should not be imposed as stated?

9 **ATTORNEY TERESA ASHCRAFT:** No, Your Honor.

10 **THE COURT:** Ms. Kraus, do you know of any reason why
11 the sentence should not be imposed as stated?

12 **ATTORNEY MICHELLE KRAUS:** No, ma'am.

13 **THE COURT:** I now order the sentence imposed as
14 stated?

15 Mr. Richards, you've now heard the judgment of this Court
16 imposing judgment upon you. Pursuant to Rule 32(J) of the
17 Rules of Criminal Procedure, you have a right to appeal your
18 conviction and sentence under certain circumstances,
19 particularly if you think the sentence in this case is somehow
20 contrary to law.

21 With few exceptions, any Notice of Appeal must be filed
22 within 14 days of judgment being entered in your case. If
23 want to file an appeal and you are unable to pay the cost of
24 an appeal, you may be able to file an appeal at no cost to
25 you.

1 If you so request, the Clerk of the Court will prepare and
2 file a notice of appeal on your behalf.

3 Ms. Kraus, as the defendant's lawyer, I remind you of your
4 duty to perfect a timely appeal of this sentence, should your
5 client wish to do so. You're also reminded of your continuing
6 responsibilities under Circuit Rule 51.

7 That concludes the proceedings. The defendant is hereby
8 remanded to the custody of the United States Marshals.

9 **ATTORNEY MICHELLE KRAUS:** Thank you, Judge.

10 **THE CLERK:** All rise.

11 * * *

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5 **CERTIFICATE OF THE REPORTER**

6 I hereby certify that the foregoing proceedings is true
7 and correct, as taken down and transcribed to the best of my
8 ability, with the aid of realtime computer-aided
9 transcription and/or a transcriptionist.

10
11
12 s/ Tina M. Gallucci
13 **Tina M. Gallucci, RMR, CRR, FCRR**
14 **United States District Court Reporter**

15 *Certificate applies only to Original Transcript hereof,*
16 *and does not apply to any copies of this, whether Xerox or*
17 *computerized.*

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA**

UNITED STATES OF AMERICA

Plaintiff,

vs.

TIMOTHY LEE RICHARDS

Defendant.

CASE NUMBER: 1:10CR6-001

USM Number: 10460-027

**MICHELLE F KRAUS - FCD
DEFENDANT'S ATTORNEY**

JUDGMENT IN A CRIMINAL CASE

(For Revocation of Probation or Supervised Release)

THE DEFENDANT admitted guilt to Violation No. 1 of Mandatory Condition No.1 (New Allegation), Violation No. 1 of Mandatory Condition No. 1 (Previous Allegation), Violation No. 1 of Standard Condition No. 5 (Previous Allegation) and Violation No. 1 of Standard Condition No. 6 (Previous Allegation) of the term of supervision.

ACCORDINGLY, the Court has adjudicated that the Defendant is guilty of the following offense:

<u>Violation Number</u>	<u>Nature of Violation</u>	<u>Date Violation Concluded</u>
Mandatory Condition No. 1 (New Allegation) Violation No. 1	The Defendant signed an admission form admitting to smoking two blunts, containing marijuana.	On or About November 6, 2024
Mandatory Condition No. 1 (Previous Allegation) Violation No. 1	On July 31, 2024, this officer collected a urine sample from the Defendant, which yielded a positive result for the presence of marijuana. The Defendant admitted to smoking approximately three joints, containing marijuana.	On or About July 29, 2024
Standard Condition No. 5 (Previous Allegation) Violation No. 1	The Defendant has failed to maintain lawful employment. The Defendant was last employed by LaborWorks and has not provided any updated employment information.	July 2, 2024

Standard
Condition No. 6
(Previous
Allegation)

Violation No. 1	The Defendant advised he was residing at the Fort Wayne Rescue Mission. On September 24, 2024, Fort Wayne Rescue Mission staff advised the Defendant was involved in a physical altercation with another resident on May 8, 2024, and is ineligible for all services until May 8, 2026. The Defendant has failed to notify this officer of a change in his residence	July 31, 2024
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The Defendant is sentenced as provided in pages 3 through 4 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

The Court ORDERS the Defendant's current term of supervision REVOKED.

IT IS ORDERED that the Defendant must notify the United States Attorney for this District within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs and special assessments imposed by this Judgment are fully paid. If ordered to pay restitution, the Defendant must notify the Court and United States Attorney of any material change in economic circumstances.

February 11, 2025

Date of Imposition of Judgment

s/ Holly A. Brady

Signature of Judge

Holly A. Brady, Chief Judge, U. S. District Court

Name and Title of Judge

February 11, 2025

Date

IMPRISONMENT

The Defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of **36 MONTHS**.

The Court makes the following recommendations to the Bureau of Prisons:

1. That the Defendant serve his term of imprisonment at the federal facility in Milan, Michigan to facilitate visitation with family and friends.
2. That the Defendant participate in the Residential Drug Assistance Program (RDAP) or another available program to address his substance abuse issues.
3. That the Defendant be considered for enrollment in any Evidence Based Recidivism Reduction Programs or other programs implemented by the BOP to allow the Defendant to earn early release credits under the First Step Act.
4. That the Defendant participate in residential re-entry programs specific to his needs, as available under the First Step Act.
5. That the Defendant be assessed for participation in the Evidence Based Recidivism Reduction Program (pursuant to the First Step Act) as well as any recidivism programs developed or to be developed under 34 U.S.C. § 605.

The Defendant is remanded to the custody of the United States Marshal.

RETURN

I have executed this Judgment as follows:

Defendant delivered _____ to _____ at _____,
with a certified copy of this Judgment.

UNITED STATES MARSHAL

By: _____
DEPUTY UNITED STATES MARSHAL

SUPERVISED RELEASE

No new term of supervised is imposed.

CRIMINAL MONETARY PENALTIES

The Court **ORDERS** the Defendant to pay all financial obligations, including the balance of the restitution ordered, and to do so under the same terms previously imposed and ordered by the Court in its original judgment entered on December 5, 2012. Defendant shall receive credit for all payments made to date.