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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN**

RONALD W. WESTON, SR., CLERK
U.S. DISTRICT COURT
WESTERN DISTRICT MICH

Petition for Warrant or Summons for Offender Under Supervision

BY GV

February 28, 2005

Name of Offender: **William Wallace Lear**

Docket Number: 1:02:CR:57-01

Name of Sentencing Judicial Officer:

The Honorable Gordon J. Quist
U.S. District Judge

Date of Original Sentence: January 21, 2003

Original Offense: Counts 1 & 2: Failure to File Income Tax Return
26 U.S.C. § 7203

Original Sentence: 12 months imprisonment followed by 1 year supervised release. Additional conditions: (1) Defendant shall provide financial disclosure; (2) shall not incur new credit charges or open additional lines of credit; and (3) cooperate with IRS officials to satisfy past due taxes and penalties. Special Assessment, \$50.00 (paid).

Type of Supervision: Supervised Release

Date Supervision Commenced: 3-8-2004

Assistant U.S. Attorney: Thomas J. Gezon

Defense Attorney: Richard E. Zambon

PETITIONING THE COURT

- To issue a warrant
- To issue a summons

The probation officer believes the offender has violated the following condition(s) of supervision:

Certified as a True Copy
Ronald W. Weston, Sr., Clerk
By: [Signature]
Deputy Clerk
U.S. District Court
Western Dist. of Michigan
Case 32-05

VIOLATION NUMBER 1

Special Condition No. 3, "The defendant shall cooperate with IRS officials to satisfy past due taxes and penalties, and file correct amended income tax returns for 1995 through 2001."

Nature of Noncompliance

Internal Revenue Service (IRS) officials advised Mr. Lear has not cooperated with their agency as directed above. Specifically, in a face-to-face meeting in October, 2004, Mr. Lear and his wife challenged the authority of the IRS personnel present at the meeting. Mr. Lear reportedly refused to answer any questions addressed to him until agency officials answered, in writing, his "Constructive Notice of Demand for Direct Challenge to Personal Authority." Mr. Lear's refusal to answer the questions of IRS personnel and his demand they sign his documentation, show his willful lack of cooperation in satisfying any arrearages and in the filing of correct amended income tax returns as directed.

U.S. Probation Officer Recommendation:

- The term of supervision should be
 revoked.
 extended for ___ year, for a total term of ___ years.

I declare under penalty of perjury the foregoing is true and correct,

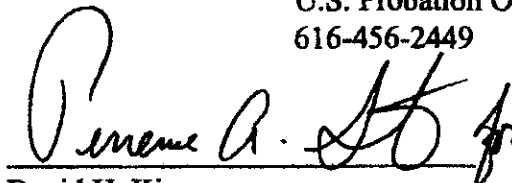
Executed on: 3/2/05



Jeffrey C. Sanderson
U.S. Probation Officer
616-456-2449

JCS:lei

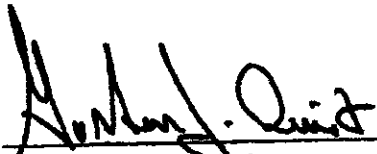
Reviewed and Approved:



David H. Kinsman
Supervising U.S. Probation Officer
616-456-2092

THE COURT ORDERS:

- No Action
- The Issuance of a Warrant
- The Issuance of a Summons
- Other



Hon. Gordon J. Quist
U.S. District Judge

Date ~~MAR~~ 2 2005

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN**

The Honorable Gordon J. Quist
U.S. District Judge

February 28, 2005

SUPERVISED RELEASE VIOLATION REPORT

**RE: William Wallace Lear
Docket No. 1:02:CR:57-01
Exp. Date: March 7, 2005**

ORIGINAL OFFENSE AND SENTENCE

1. On January 21, 2003, William Wallace Lear appeared before the Honorable Gordon J. Quist, U.S. District Judge, for sentencing after having been found guilty of Counts 1 & 2: Failure to File Income Tax Return, a violation of 26 U.S.C. § 7203. Based on a total offense level of 13 and a criminal history category of I, the guideline range, as determined by the Court, was 12 to 18 months imprisonment. Mr. Lear was sentenced to serve 12 months imprisonment, to be followed by a one year term of supervised release.
2. In addition to the standard conditions of supervision, the following additional conditions of supervision were ordered:
 - (1) The defendant shall provide the probation officer with access to any requested financial information.
 - (2) The defendant shall not incur new credit charges or open additional lines of credit without the approval of the probation officer.
 - (3) The defendant shall cooperate with IRS officials to satisfy past due taxes and penalties, and file correct amended income tax returns for 1995 through 2001.
3. The defendant was ordered to pay a \$50.00 special assessment, which has been paid in full.
4. Mr. Lear was released from the Bureau of Prisons on March 8, 2004 and began his term of supervised release in the Western District of Michigan.

SUPERVISED RELEASE VIOLATION(S)

5. **Violation Number 1: Special Condition No. 3, "The defendant shall cooperate with IRS officials to satisfy past due taxes and penalties, and file correct amended income tax returns for 1995 through 2001."**
6. IRS officials report they attempted to secure a location to meet with Mr. Lear regarding his arrearage and the income tax obligations he still owes. IRS officials suggest Mr. Lear refused to meet with them at their offices as well as the probation office. Mr. Lear and his wife reportedly made arrangements for the meeting to take place at Congressman Peter Hoekstra's office in Muskegon, Michigan. This meeting occurred on October 4, 2004, with Mr. Lear and his wife present along with IRS officials. Officials report Mr. Lear and his wife, Rose Lear, challenged the authority of the IRS personnel present at the meeting and Mr. Lear refused to answer any questions addressed to him until officials signed a document he presented. This document was entitled "Constructive Notice of Demand for Direct Challenge to Personal Authority." Officials report during the meeting, Mrs. Lear stated the IRS was a "terrorist organization" and also presented arguments which the IRS stated have been consistently held as frivolous. Mr. Lear was asked by the officials if he held the same views being presented by his wife and he stated he fully agreed with her arguments. IRS officials report this meeting was taped by both IRS personnel and the Lear's. Officials state this tape is available for the Court's review. This is a Grade C violation, pursuant to U.S.S.G. § 7B1.1(a)(3).

SUPERVISION ADJUSTMENT

7. Mr. Lear has done the things requested of him by the probation office with regard to submitting report forms and making payments toward his court-ordered obligation. Mr. Lear has paid off the special assessment and costs of prosecution (less a balance of \$60.00) as ordered by the Court. All conversations with him have been generally amicable.
8. The problem with supervising Mr. Lear has been the conduct of his wife. Home visits to his residence have always been hostile in that Mrs. Lear will forbid entry and then engage in argumentative conversation during the home visit. Mrs. Lear has blocked off rooms and forbid our access only to have Mr. Lear reason with her and permit us to perform our job duties. One of those visits involved Mrs. Lear charging at one of the probation officers while in her home. This officer had to have a conversation with Mr. Lear advising him our job required our presence in his home and if we could not do this in a safe manner, this issue would be brought to the Court's attention. It is clear the defendant's wife does not appreciate the intrusion into her home.

CRIMINAL HISTORY CATEGORY

9. The criminal history category applicable at the time Mr. Lear was originally sentenced to a term of supervision is used to compute the guideline range applicable upon revocation, pursuant to U.S.S.G. § 7B1.4(a). Mr. Lear's criminal history category at the time of the original sentence was I.

REVOCACTION OPTIONS

Custody

10. **Statutory Provisions:** The custody term is not more than one year, pursuant to 18 U.S.C. § 3583(e)(3), because the most serious offense that resulted in the term of supervised release was a Class A misdemeanor.
11. **Guideline (Policy Statement) Provisions:** Violation Numbers 1 is a Grade C violation. With a Grade C violation and a criminal history category of I, the guideline range of imprisonment upon revocation is 3 to 9 months, pursuant to U.S.S.G. § 7B1.4(a).

Supervised Release

12. **Statutory Provisions:** The supervised release term is not more than one year, less any term of imprisonment imposed at revocation, pursuant to 18 U.S.C. § 3583(h).
13. **Guideline (Policy Statement) Provisions:** When supervised release is revoked and the term of imprisonment imposed is less than the maximum term of imprisonment imposable upon revocation, the defendant may, to the extent permitted by law, be ordered to recommence supervised release upon release from imprisonment, pursuant to U.S.S.G. § 7B1.3(g)(2). This guideline notes the length of supervised release is determined pursuant to 18 U.S.C. § 3583(h).

Other Revocation Provisions

14. **Other Statutory Provisions:** The Court may terminate, modify or revoke the term of supervised release, pursuant to 18 U.S.C. § 3583(e)(1-3). As an alternative to incarceration, the Court may order home confinement with electronic monitoring, pursuant to 18 U.S.C. § 3583(e)(4).

15. **Other Guideline (Policy Statement) Provisions:** Upon a finding of a Grade C violation, the Court may (A) revoke supervised release; or (B) extend the term of supervised release and/or modify the conditions of supervised release, pursuant to U.S.S.G. § 7B1.3(a)(2).
16. In the case of a Grade C violation, where the minimum term of imprisonment determined under U.S.S.G. § 7B1.4 (Term of Imprisonment) is at least one month but not more than six months, the minimum term may be satisfied by (A) a sentence of imprisonment; or (B) a sentence of imprisonment that includes a term of supervised release with a condition that substitutes community confinement or home detention according to the schedule in § 5C1.1(e) for any portion of the minimum term, according to U.S.S.G. § 7B1.3(c)(1).

REASONS FOR DEPARTURE

17. The probation officer has no information concerning the violation or the offender which would warrant a departure from the Guideline (Policy Statement) Range.

RECOMMENDATION


18. **Custody:** 6 months
19. **Supervised Release:** 6 months

In addition to the standard conditions of supervised release, the defendant shall abide by the following additional conditions, to read as follows:

- (1) The defendant shall not incur any new credit card charges or open additional lines of credit without the approval of the probation office.
- (2) The defendant shall provide the probation officer with access to any requested financial information.
- (3) The defendant shall cooperate with IRS officials to satisfy past due taxes and penalties, and file correct amended income tax returns for 1995 through 2001.

20. **Other Provisions:** Pursuant to the Judgment and Commitment Order dated January 21, 2003, the defendant shall pay the remaining cost of prosecution in the amount of \$60.00, which is due and payable immediately.

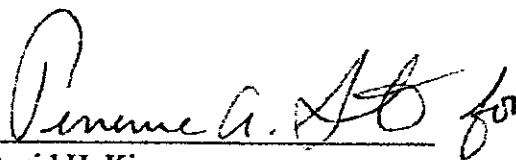
Respectfully submitted,



Jeffrey C. Sanderson
U.S. Probation Officer
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JCS:lei

Reviewed and Approved:



David H. Kinsman
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616-456-2092