

SENTENCING HEARING

Date: 2/26/09
Start: 10:00 End: 10:40

Judge James C. Cochran
Reporter: R. Montgomery

UNITED STATES of AMERICA

CASE NUMBER: 1:08cr79

Vs.

Kyle Dustin Foggo

Paul Butler, W. Randolph Teslik

Counsel/Govt.: Vakrie Chus Jason Forge

Counsel/Deft.: Mark MacDrusall, Andrew Dober

Court adopts PSI without exceptions with the following exceptions: _____

SENTENCING GUIDELINES:

Offense Level: 19
Criminal History: I
Imprisonment Range: 30 to 37 months
Supervised Release Range: _____ to _____ years
Restitution: \$ _____
Fine Range: \$ _____ to \$ _____
Special Assessment: \$ 100.00 per Count

Upon Motion of Deft Govt
Court depart from G/L pursuant to:
 USSG 5K1.1
 USSG 5C1.2
 USSG 5K2.12
 USSG 5H1.4

JUDGMENT of the COURT:

BOP for 37 months, with credit for time served
Supervised Release for 2 Years
Supervised Probation for _____ Years
Restitution: \$ _____ payable to _____
Fine: \$ _____ Due Immediately Monthly payments of \$ _____
to begin _____ days from imposition of sentence/release
Special Assessment: \$ 100.00 Satisfied Due immediately
Fine/Costs Waived Interest Waived

SPECIAL CONDITIONS:

- ____ Home Confinement for the first _____ days/months of supervision, at the deft's expense, w/leave as directed by Court.
- ____ Deft. to remain drug free, In/Out patient treatment as directed.
- 1 Deft. to participate in alcohol counseling as directed. to pay
- ____ Pay Restitution of \$ _____, Due Immediately Monthly payments of \$ _____ to begin _____ days from release from custody.
- 2 Access to all financial information/records
- ____ No New Credit
- ____ No Purchases over \$ _____ without prior approval.
- ____ Cooperate fully w/BICE, may not re-enter w/o permission during S/R.
- ____ Seek and maintain full time employment
- 3 Drug Testing Waived testing as directed
- ____ Other: 100 hrs C/S

RECOMMENDATION TO BOP:

in sec - FBI
 Deft. to be designated to a Facility in Cumberland
____ ICC (Boot Camp) when eligible. 500 Hrs Intensive Drug Treatment
____ Other: _____
Defendant: Remanded Self Surrender/Bond cont. Referred to USPO

A sworn

Family present

Defendant's Name: **KYLE DUSTIN FOGGO**
Case Number: **1:08cr00079**

IMPRISONMENT

The defendant is hereby committed into the custody of the United States Bureau of Prisons to be imprisoned for a total term of: **THIRTY-SEVEN (37) Months.**

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:
as notified by the United States Marshal.

The Court makes the following recommendations to the Bureau of Prisons:
The defendant to be designated to F.C.I. Cumberland in Maryland.

RETURN

I have executed this judgment as follows: _____

Defendant delivered on _____ to _____

at _____, with a certified copy of this Judgment.

UNITED STATES MARSHAL

By

DEPUTY UNITED STATES MARSHAL

Defendant's Name: KYLE DUSTIN FOGGO
Case Number: 1:08cr00079

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of: TWO (2)Years.

The Probation Office shall provide the defendant with a copy of the standard conditions and any special conditions of supervised release.

The defendant shall report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess or use a controlled substance. Unless mandatory drug testing is waived, the defendant shall submit to one drug test within 15 days of release from custody and periodic drug tests thereafter, as determined by the Court.

The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon.

If this judgment imposes a fine or restitution obligation, it is a condition of supervised release that the defendant pay any such fine or restitution in accordance with the Schedule of Payments set forth in the Criminal Monetary Penalties sheet of this judgment.

STANDARD CONDITIONS OF SUPERVISION

The defendant shall comply with the standard conditions that have been adopted by this court as well as with any special conditions of supervision.

- 1) the defendant shall not leave the judicial district without the permission of the Court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependants and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days before any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance or any paraphernalia related to such substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within 72 hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or as an agent of a law enforcement agency without the permission of the Court;
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

Defendant's Name: KYLE DUSTIN FOGGO
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SPECIAL CONDITIONS OF SUPERVISION

While on supervised release, pursuant to this Judgment, the defendant shall also comply with the following additional special conditions:

- 1) The defendant must satisfactorily participate in, and complete any inpatient or outpatient alcohol testing and/or treatment at his own expense at the direction of the probation officer.
- 2) The defendant shall provide the probation officer with access to requested financial information
- 3) The defendant must complete 100 hours of community service during the first year of supervised release.
- 4) As reflected in the presentence report, the defendant presents a low risk of future substance abuse and therefore, the Court hereby suspends the mandatory condition for substance abuse testing as defined by 18 U.S.C. 3563 (a)(5). However, this does not preclude the United States Probation Office from administering drug tests as they deem appropriate..

Defendant's Name: **KYLE DUSTIN FOGGO**
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CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the Schedule of Payments on Sheet 6.

<u>Count</u>	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
1SS	\$100.00	\$0.00	\$0.00
TOTALS:	\$100.00	\$0.00	\$0.00

No fines have been imposed in this case.

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SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

The special assessment shall be due in full immediately.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the Clerk of the Court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

Payments shall be applied in the following order: (1) assessment (2) restitution principal (3) restitution interest (4) fine principal (5) fine interest (6) community restitution (7) penalties and (8) costs, including cost of prosecution and court costs.

Nothing in the court's order shall prohibit the collection of any judgment or fine by the United States.