

PROB 12
(02/05-D/CO)

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

U. S. A. vs. CAROL GILBERT

Docket Number: 02-cr-00509-REB-01

Proposed Petition on Supervised Release

COMES NOW, Gary W. Phillips, probation officer of the court, presenting an official report upon the conduct and attitude of Carol Gilbert who was placed on supervision by the Honorable Robert E. Blackburn sitting in the court at Denver, Colorado, on the 25th day of July, 2003, who fixed the period of supervision at three (3) years, and imposed the general terms and conditions theretofore adopted by the court and also imposed special conditions and terms as follows:

- 1) Defendant shall not enter on or remain on federally protected, owned, leased or contracted national defense property or premises, Department of Defense contracted, owned or leased property or facilities, or military bases or installations.

RESPECTFULLY PRESENTING PETITION FOR ACTION OF COURT FOR CAUSE AS FOLLOWS:

(If short insert here: if lengthy write on separate sheet and attach)

See attachment hereto and herein incorporated by reference.

PRAYING THAT THE COURT WILL ORDER the unsuccessful termination of the defendant's term of supervised release.

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

s/Gary W. Phillips

Gary W. Phillips
Senior Probation Officer

Place: Denver, Colorado

Date: January 3, 2007

ATTACHMENT

The defendant has violated the terms of supervised release by leaving the district without permission and failing to follow the instructions of her probation officer.

On July 25, 2003, the defendant was sentenced to 33 months incarceration to be followed by three years supervised release pursuant to convictions for Injury, Interference and Obstruction of National Defense Materials and National Defense Premises, and Injury to Government Property. The defendant was ordered to pay a \$200 special assessment fee and \$3,080.04 in restitution, jointly and severally with codefendants Ardeth Platte and Jackie Hudson. The defendant and codefendants Platte and Hudson are members of a Dominican order of nuns and have taken vows of poverty.

Since the commencement of the defendant's term of supervised release, she has refused to make payments towards her restitution obligation citing her indigent status, vow of poverty, and religious and social convictions. On January 3, 2006, the defendants filed a joint motion for Credit Of In Kind Payment In Lieu Of Restitution. On October 18, 2006, the court denied the joint motion for Credit Of In Kind Payment In Lieu Of Restitution.

Based on the defendant's failure to comply with restitution orders, the Probation Department has disallowed travel outside her supervision district.

On November 14, 2006, the defendant left her supervision district (District of Maryland) and traveled to the District of Colorado without permission from her supervising probation officer, Christopher Keating. The defendant and her codefendant, Ardeth Platte, provided a letter to Officer Keating dated November 10, 2006, which stated their intentions of traveling to the District of Colorado to begin a campaign of collecting canned food to donate to needy military families. The letter regarding their travel plans was not received at the District of Maryland Probation Office until November 14, and Officer Keating did not receive the letter until November 15, 2006. On November 16, 2006, Officer Keating spoke telephonically with the defendant and codefendant Platte and directed them to report back to the District of Maryland within 24 hours. He further instructed them to report to his office by the end of business on November 16, 2006. The defendant and codefendant Platte both told Officer Keating that they would not return to the District of Maryland until November 28, 2006.

On November 20, 2006, the defendant and codefendants Platte and Hudson reported to the probation office in Denver, Colorado, as directed, and met with Supervising Probation Officer Suzanne Wall Juarez and me to address the issue of their presence in Colorado without the permission of their supervising officers in their respective districts. The defendant and her codefendants acknowledged that they had traveled out of their respective supervision districts in violation of their conditions of supervised release. When asked why they submitted letters noting their intention to travel to the District of Colorado at the last minute, they indicated they did so because they knew that their travel requests would be denied by their respective officers.

The defendant's campaign to collect canned food donations for needy military families may be viewed as laudable; however, this act does not mitigate her flagrant violation of conditions of supervised release. In fact, it appears that the defendant's actions are provocative, in that she and her codefendants readily admit that they traveled to the District of Colorado absent permission and in violation of their conditions of supervised release. She also disregarded Officer Keating's instruction to return to the District of Maryland.

Throughout her term of supervision, the defendant has made it clear that she has no intention of complying with certain conditions of supervised release. While many supervised releasees may fundamentally disagree with some conditions of their release, most readily comply and realize that they are obligated to comply with all court-ordered conditions. Additionally, the defendant and her codefendants have continuously used their supervision status as a forum to espouse their political and social beliefs.

The Probation Department's resources can be better utilized protecting the public from individuals who pose a threat to the community or individuals who are serious about complying with terms of supervised release and who are determined to move beyond their federal convictions.

The Probation Department believes that it is in the interest of justice that the defendant no longer be allowed to use her supervision status to promote her political/social agenda. Therefore, pursuant to 18 U.S.C. § 3585(e)(1), it is respectfully recommended that the defendant be terminated from supervised release unsuccessfully.