

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

TROY DONTAE WILLIAMS,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

APPENDIX

/s/ Christy Posnett Martin

JASON HAWKINS
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Northern District of Texas
TX State Bar No. 00759763
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(214) 767-2886 Fax

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United States v. Williams, 2024 WL 140444 (5th Cir. Jan. 12,
2024)(unpublished)..

Appendix B Judgment and Sentence of the United States District Court
for the Northern District of Texas, entered March 22, 2023.
United States v. Williams, Dist. Court 3:22-CR-119-L.

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APPENDIX A

United States Court of Appeals for the Fifth Circuit

No. 23-10292
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

January 12, 2024

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

TROY DONTAE WILLIAMS,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:22-CR-119-1

Before WILLETT, DUNCAN, and WILSON, *Circuit Judges.*

PER CURIAM:*

Troy Dontae Williams pleaded guilty of possession of a firearm by a felon. He argues for the first time on appeal that the district court erred in accepting his guilty plea because 18 U.S.C. § 922(g)(1) infringes the Second Amendment. He also reurges his argument that § 922(g)(1) is unconstitutional because it exceeds Congress's authority under the

* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

No. 23-10292

Commerce Clause, and the district court therefore misadvised him of the nature of his offense and erroneously accepted the factual basis for his guilty plea, in violation of Federal Rules of Criminal Procedure 11(b)(1)(G), 11(b)(3).

Because Williams did not raise his Second Amendment challenge before the district court, we review it for plain error. *See United States v. Howard*, 766 F.3d 414, 419 (5th Cir. 2014). To prevail under this standard, he must show an error that is clear or obvious and that affects his substantial rights. *See Puckett v. United States*, 556 U.S. 129, 135 (2009). If he makes this showing, we have discretion to correct the error but should do so only if it “seriously affects the fairness, integrity or public reputation of judicial proceedings.” *Id.* (internal quotation marks, citation, and alteration omitted).

Williams’s Second Amendment argument is grounded in *New York State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1 (2022), which announced a new test for assessing whether a statute infringes the Second Amendment. 597 U.S. at 17. We recently rejected the argument, on plain error review, that § 922(g)(1) infringes the Second Amendment under *Bruen*. *See United States v. Jones*, ___ F.4th ___, No. 23-10198, 2023 WL 8074295, at *1-2 (5th Cir. Nov. 21, 2023). Williams’s *Bruen* contention therefore is unavailing.

We have consistently upheld the constitutionality of § 922(g)(1) as “a valid exercise of Congress’s authority under the Commerce Clause.” *United States v. Alcantar*, 733 F.3d 143, 145-46 (5th Cir. 2013). Accordingly, Williams correctly concedes that his Commerce Clause challenge is foreclosed. Because Williams’s Rule 11 challenges are predicated on his Commerce Clause challenge, it follows that the district court did not violate Rule 11.

AFFIRMED.

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

TEL. 504-310-7700
600 S. MAESTRI PLACE,
Suite 115
NEW ORLEANS, LA 70130

January 12, 2024

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW

Regarding: Fifth Circuit Statement on Petitions for Rehearing
or Rehearing En Banc

No. 23-10292 USA v. Williams
USDC No. 3:22-CR-119-1

Enclosed is a copy of the court's decision. The court has entered judgment under Fed. R. App. P. 36. (However, the opinion may yet contain typographical or printing errors which are subject to correction.)

Fed. R. App. P. 39 through 41, and Fed. R. App. P. 35, 39, and 41 govern costs, rehearings, and mandates. **Fed. R. App. P. 35 and 40 require you to attach to your petition for panel rehearing or rehearing en banc an unmarked copy of the court's opinion or order.** Please read carefully the Internal Operating Procedures (IOP's) following Fed. R. App. P. 40 and Fed. R. App. P. 35 for a discussion of when a rehearing may be appropriate, the legal standards applied and sanctions which may be imposed if you make a nonmeritorious petition for rehearing en banc.


Direct Criminal Appeals. Fed. R. App. P. 41 provides that a motion for a stay of mandate under Fed. R. App. P. 41 will not be granted simply upon request. The petition must set forth good cause for a stay or clearly demonstrate that a substantial question will be presented to the Supreme Court. Otherwise, this court may deny the motion and issue the mandate immediately.

Pro Se Cases. If you were unsuccessful in the district court and/or on appeal, and are considering filing a petition for certiorari in the United States Supreme Court, you do not need to file a motion for stay of mandate under Fed. R. App. P. 41. The issuance of the mandate does not affect the time, or your right, to file with the Supreme Court.

Court Appointed Counsel. Court appointed counsel is responsible for filing petition(s) for rehearing(s) (panel and/or en banc) and writ(s) of certiorari to the U.S. Supreme Court, unless relieved of your obligation by court order. If it is your intention to file a motion to withdraw as counsel, you should notify your client promptly, **and advise them of the time limits for filing for rehearing and certiorari.** Additionally, you MUST confirm that this information was given to your client, within the body of your motion to withdraw as counsel.

Sincerely,

LYLE W. CAYCE, Clerk

A handwritten signature in cursive script that reads "Mary Frances Yeager". The signature is written in dark ink and is positioned above a horizontal line.

By: _____
Mary Frances Yeager, Deputy Clerk

Enclosure(s)

Mr. Jonathan Glen Bradshaw
Ms. Christy Martin
Mr. Brian W. McKay

APPENDIX B

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS DALLAS DIVISION

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

v.

TROY DONTAE WILLIAMS

Case Number: **3:22-CR-00119-L(1)**

USM Number: **57221-007**

Marti Rachel Morgan

Defendant's Attorney

THE DEFENDANT:

<input type="checkbox"/>	pleaded guilty to count(s)	
<input checked="" type="checkbox"/>	pleaded guilty to count(s) before a U.S. Magistrate Judge, which was accepted by the court.	Count 1 of the Indictment filed March 29, 2022
<input type="checkbox"/>	pleaded nolo contendere to count(s) which was accepted by the court	
<input type="checkbox"/>	was found guilty on count(s) after a plea of not guilty	

The defendant is adjudicated guilty of these offenses:

Title & Section / Nature of Offense

18 U.S.C. §§ 922(g)(1) and 924(a)(2) Possession of a Firearm by a Convicted Felon

Offense Ended

09/04/2021

Count

1

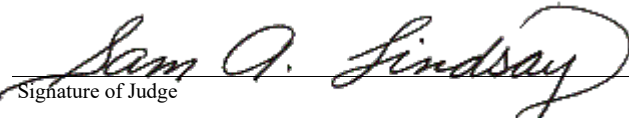
The defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- The defendant has been found not guilty on count(s)
- Count(s) is are dismissed on the motion of the United States

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 material changes in economic circumstances.

March 20, 2023

Date of Imposition of Judgment


Signature of Judge

Sam A. Lindsay, United States District Judge

Name and Title of Judge

March 22, 2023

Date

DEFENDANT: TROY DONTAE WILLIAMS
CASE NUMBER: 3:22-CR-00119-L(1)

IMPRISONMENT

Pursuant to the Sentencing Reform Act of 1984, but taking the Guidelines as advisory pursuant to United States v. Booker, and considering the factors set forth in 18 U.S.C. Section 3553(a), the defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of: **Thirty-Seven (37) months as to Count 1. This sentence shall run concurrently with any sentences imposed in Case Nos. F2141500 and F2141501, in Criminal District Court No. 1, Dallas County, Texas; and Case No. M2141936, County Criminal Court No. 7, Dallas County, Texas.**

Pursuant to United States Sentencing Commission Guidelines Manual, in particular, Section 5G1.3(c), the November 2021 Edition, the court intends for Troy Dontae Williams to receive a sentence adjustment to account for any time that he has spent in custody beginning on September 4, 2021, that the Bureau of Prisons will not credit under Title 18 United States Code 3585(b).

- The court makes the following recommendations to the Bureau of Prisons:
The court recommends that Defendant be allowed to serve his sentence at FCI Seagoville, or if space is not available, a facility in the Dallas/Fort Worth, Texas area, if he is eligible.
- The defendant is remanded to the custody of the United States Marshal.
- The defendant shall surrender to the United States Marshal for this district:
- at a.m. p.m. on
- as notified by the United States Marshal.
- The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:
- before 2 p.m. on
- as notified by the United States Marshal.
- as notified by the Probation or Pretrial Services Office.

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: TROY DONTAE WILLIAMS
CASE NUMBER: 3:22-CR-00119-L(1)

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of : **Three (3) years.**

MANDATORY CONDITIONS

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.
 - The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. *(check if applicable)*
4. You must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. *(check if applicable)*
5. You must cooperate in the collection of DNA as directed by the probation officer. *(check if applicable)*
6. You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, et seq.) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which you reside, work, are a student, or were convicted of a qualifying offense. *(check if applicable)*
7. You must participate in an approved program for domestic violence. *(check if applicable)*
8. You must pay the assessment imposed in accordance with 18 U.S.C. § 3013.
9. If this judgment imposes a fine, you must pay in accordance with the Schedule of Payments sheet of this judgment.

You must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

DEFENDANT: TROY DONTAE WILLIAMS
CASE NUMBER: 3:22-CR-00119-L(1)

STANDARD CONDITIONS OF SUPERVISION

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
4. You must answer truthfully the questions asked by your probation officer.
5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
11. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
13. You must follow the instructions of the probation officer related to the conditions of supervision.

U.S. Probation Office Use Only

A U.S. probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. I understand additional information regarding these conditions is available at www.txnp.uscourts.gov.

Defendant's Signature _____

Date _____

DEFENDANT: TROY DONTAE WILLIAMS
CASE NUMBER: 3:22-CR-00119-L(1)

SPECIAL CONDITIONS OF SUPERVISION

The defendant shall participate in outpatient mental health treatment services as directed by the probation officer until successfully discharged. These services may include medications prescribed by a licensed physician. The defendant shall contribute to the costs of services rendered (copayment) at a rate of at least \$25 per month.

The defendant shall participate in an outpatient program approved by the probation officer for treatment of narcotic, drug, or alcohol dependency that will include testing for the detection of substance use, abstaining from the use of *excessive* alcohol and all other intoxicants during and after completion of treatment, and contributing to the costs of services rendered (copayment) at the rate of at least \$25 per month.

DEFENDANT: TROY DONTAE WILLIAMS
CASE NUMBER: 3:22-CR-00119-L(1)

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the Schedule of Payments page.

	Assessment	Restitution	Fine	AVAA Assessment*	JVTA Assessment**
TOTALS	\$100.00	\$0.00	\$0.00	\$0.00	\$0.00

- The determination of restitution is deferred until *An Amended Judgment in a Criminal Case (AO245C)* will be entered after such determination.
- The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

- Restitution amount ordered pursuant to plea agreement \$
- The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on the Schedule of Payments page may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).
- The court determined that the defendant does not have the ability to pay interest and it is ordered that:
 - the interest requirement is waived for the fine restitution
 - the interest requirement for the fine restitution is modified as follows:

* Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, Pub. L. No. 115-299.
** Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22
*** Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: TROY DONTAE WILLIAMS
CASE NUMBER: 3:22-CR-00119-L(1)

SCHEDULE OF PAYMENTS

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

- A** Lump sum payments of \$ _____ due immediately, balance due
 not later than _____, or
 in accordance C, D, E, or F below; or
- B** Payment to begin immediately (may be combined with C, D, or F below); or
- C** Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D** Payment in equal (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E** Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F** Special instructions regarding the payment of criminal monetary penalties:
It is ordered that the Defendant shall pay to the United States a special assessment of \$100.00 for Count 1, which shall be due immediately. Said special assessment shall be paid to the Clerk, U.S. District Court.

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.

- Joint and Several
See above for Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.
- The defendant shall pay the cost of prosecution.
- The defendant shall pay the following court cost(s):
- The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) AVAA assessment, (5) fine principal, (6) fine interest, (7) community restitution, (8) JVTA assessment, (9) penalties, and (10) costs, including cost of prosecution and court costs.

APPENDIX C

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

TROY DONTAE WILLIAMS,

Defendant.

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NO. 3:22-CR-119-L

ELEMENTS AND PUNISHMENT OF THE OFFENSE AND FACTUAL RESUME

In support of the Defendant’s plea of guilty to Count One of the single-count Indictment charging a violation of 18 U.S.C. § 922(g)(1) (Felon in Possession of a Firearm), **TROY DONTAE WILLIAMS** and his attorney, Assistant Federal Public Defender Marti Morgan, stipulate and agree to the following:

ELEMENTS OF THE OFFENSE

The elements of a violation of 18 U.S.C. § 922(g)(1) are:

1. That the defendant knowingly possessed a firearm;¹
2. That before the defendant possessed the firearm, the defendant had been convicted in court of a crime punishable by imprisonment for a term in excess of one year, that is, a felony offense;
3. That the defendant knew he had been convicted of such a crime at the time he possessed the firearm; and
4. That the possession of the firearm was in or affected interstate commerce; that is, that before the defendant possessed the firearm, it had traveled from one state to another.

¹ The term “firearm” means any weapon that will be, is designed to be, or may readily be converted to expel a projectile by the action of an explosion.

PUNISHMENT FOR THE OFFENSE

The maximum penalties that a district court can impose for a violation of 18 U.S.C. § 922(g) include the following:

1. Imprisonment for a period not to exceed ten years;
2. A fine not to exceed two-hundred-fifty-thousand dollars, or twice any pecuniary gain to the defendant or loss to the victim(s);
3. A term of supervised release not to exceed three years, which could follow any term of imprisonment imposed. If the defendant violates the conditions of supervised release, he could be imprisoned for up to three years;
4. A mandatory special assessment of one-hundred dollars;
5. Restitution to victims or to the community, which is mandatory under the law; and
6. Costs of incarceration and supervision.

SENTENCING IN THIS CASE

Mr. Williams has discussed the Federal Sentencing Guidelines with his attorney and understands that the sentence in this case will be imposed by the district court after it has considered the applicable statutes, the Sentencing Guidelines, and the factors included in 18 U.S.C. § 3553(a). However, neither the Guidelines nor § 3553(a) are binding, and the district court, in its discretion, may sentence Mr. Williams to the statutory maximum penalties, as long as such a sentence is reasonable. Congress has abolished parole, so if the district court sentences Mr. Williams to a term of imprisonment, he understands that he will not be released on parole.

CONSTITUTIONAL RIGHTS AND WAIVER OF THOSE RIGHTS

1. Mr. Williams understands that he has the following constitutional rights:
 - a. The right to plead not guilty to the charged offenses;
 - b. The right to have a speedy trial by a jury in this District;
 - c. The right to have his guilt proven beyond a reasonable doubt;
 - d. The right to confront and cross-examine witnesses and to call and subpoena witnesses and material in his defense; and
 - e. The right to not be compelled to incriminate himself.
2. The waiver of these rights:

Mr. Williams waives the aforementioned rights and pleads guilty to the offense alleged in Count One of the Indictment charging him with violating 18 U.S.C. §§ 922(g)(1). Mr. Williams understands the nature and the elements of the offense for which he is pleading guilty and agrees that the following stipulated facts are true and will be submitted as evidence.

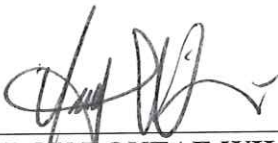
STIPULATED FACTS: COUNT FOUR

Mr. Williams stipulates that on or about September 4, 2021, in the Dallas Division of the Northern District of Texas, knowing that he had been previously convicted of a crime punishable by imprisonment for a term exceeding one year, that is, a felony offense, he knowingly possessed, in and affecting interstate and foreign commerce, a firearm, to wit: a Taurus, Model G3, 9mm caliber pistol, bearing serial number ACE848993, in violation of 18 U.S.C. § 922(g)(1). Mr. Williams agrees that he committed all the essential elements of the offense alleged in Count One of the Indictment.

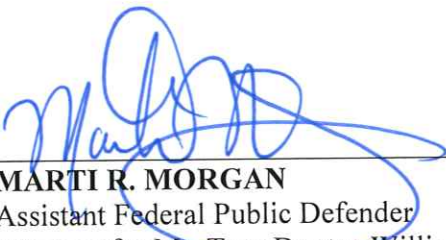
VOLUNTARINESS OF THE PLEA OF GUILTY

Mr. Williams has thoroughly reviewed his constitutional rights, the facts of his case, the elements of the offenses of conviction, the statutory penalties, the Sentencing Guidelines, and § 3553(a) with his attorney. Mr. Williams has received satisfactory explanations regarding every aspect of this document and the alternatives to signing this document, and he is satisfied with his attorney's representation of him in this case. Mr. Williams concedes that he is guilty of Count One of the single-count Indictment, and he concludes that it is in his best interests to plead guilty.

AGREED TO AND SIGNED this 29th day of July, 2022.



TROY DONTAE WILLIAMS
Defendant



MARTI R. MORGAN
Assistant Federal Public Defender
Attorney for Mr. Troy Dontae Williams