

No. \_\_\_\_\_

IN THE SUPREME COURT OF THE UNITED STATES

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DONTRELL LAVELL THOMAS,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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

APPENDIX

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/s/ Kevin Joel Page

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Appendix A Opinion of Fifth Circuit, CA No. 22-11241, *United States v. Thomas*, (5<sup>th</sup> Cir. Jan. 29, 2024)(unpublished).

Appendix B Judgment and Sentence of the United States District Court for the Northern District of Texas, entered December 22, 2022. *United States v. Thomas*, Dist. Court 4:22-CR-235-P.

## APPENDIX A

# United States Court of Appeals for the Fifth Circuit

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No. 22-11241  
Summary Calendar

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United States Court of Appeals  
Fifth Circuit

**FILED**

January 29, 2024

Lyle W. Cayce  
Clerk

UNITED STATES OF AMERICA,

*Plaintiff—Appellee,*

*versus*

DONTRELL LAVELL THOMAS,

*Defendant—Appellant.*

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 4:22-CR-235-1

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Before KING, HAYNES, and GRAVES, *Circuit Judges.*

PER CURIAM:\*

Dontrell Lavell Thomas pleaded guilty, pursuant to a written plea agreement, to possessing a firearm after a felony conviction, in violation of 18 U.S.C. § 922(g)(1). He was sentenced under former 18 U.S.C. § 924(a)(2) to 60 months of imprisonment and three years of supervised release.

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

No. 22-11241

For the first time, he argues that his conviction on the ground that § 922(g)(1) is unconstitutional in light of the Supreme Court’s decision in *New York State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1 (2022). We pretermitted whether the appeal waiver in Thomas’s plea agreement bars this argument. See *United States v. Thompson*, 54 F.4th 849, 851 (5th Cir. 2022); *United States v. Story*, 439 F.3d 226, 230-31 (5th Cir. 2006).

Because Thomas did not raise his *Bruen* challenge in the district court, we review it for plain error. See *Puckett v. United States*, 556 U.S. 129, 134 (2009). To prevail on plain error review, Thomas must show a forfeited error that is clear or obvious and that affects his substantial rights. *Id.* at 135. If he makes that showing, we will exercise our discretion to correct the error only if it “seriously affects the fairness, integrity or public reputation of judicial proceedings.” *Id.* (internal quotation marks, citation, and brackets omitted). As Thomas correctly concedes, we have rejected the argument, on plain error review, that § 922(g)(1) violates the Second Amendment under *Bruen*. *United States v. Jones*, 88 F.4th 571, 574 (5th Cir. 2023).

AFFIRMED.

## APPENDIX B

**UNITED STATES DISTRICT COURT**  
NORTHERN DISTRICT OF TEXAS  
Fort Worth Division

UNITED STATES OF AMERICA

**JUDGMENT IN A CRIMINAL CASE**

v.  
DONTRELL LAVELL THOMAS

Case Number: 4:22-CR-00235-P(01)  
U.S. Marshal's No.: 02320-510  
Matthew Weybrecht, Assistant U.S. Attorney  
Joshua Rhodes, Attorney for the Defendant

On August 31, 2022 the defendant, DONTRELL LAVELL THOMAS, entered a plea of guilty as to Count One of the Indictment filed on August 10, 2022. Accordingly, the defendant is adjudged guilty of such Count, which involves the following offense:

<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 U.S.C. §§922(g)(1) and 924(a)(2)	Felon in Possession of Firearm	1/14/2022	One

The defendant is sentenced as provided in pages 2 through 5 of this judgment. The sentence is imposed pursuant to Title 18, United States Code § 3553(a), taking the guidelines issued by the United States Sentencing Commission pursuant to Title 28, United States Code § 994(a)(1), as advisory only.

The defendant shall pay immediately a special assessment of \$100.00 as to Count One of the Indictment filed on August 10, 2022.

Upon motion of the Government, all remaining Counts are dismissed, as to this defendant only.

The defendant shall notify the United States Attorney for this district within thirty 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.

Sentence imposed December 19, 2022.



MARK T. PITTMAN  
U.S. DISTRICT JUDGE

Signed December 22, 2022.

Judgment in a Criminal Case  
Defendant: DONTRELL LAVELL THOMAS  
Case Number: 4:22-CR-00235-P(1)

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### IMPRISONMENT

The defendant, DONTRELL LAVELL THOMAS, is hereby committed to the custody of the Federal Bureau of Prisons (BOP) to be imprisoned for a term of **Sixty (60) months** as to Count One of the Indictment filed on August 10, 2022. This sentence shall run concurrently with any future sentence which may be imposed in Case Nos. 1718783D, 1718782D, and 1718784D in the 371st Judicial District Court, Tarrant County, Texas, which are related to the instant offense, and consecutively to any future sentence which may be imposed in Case No. 1725872D, in the 371st Judicial District Court, Tarrant County, Texas, which is unrelated to the instant offense.

The Court recommends to the Bureau of Prisons that the defendant be incarcerated at a facility as close to Fort Worth, TX as possible.

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

### SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be placed on supervised release for a term of **Three (3) years** as to Count One of the Indictment filed on August 10, 2022.

While on supervised release, in compliance with the standard conditions of supervision adopted by the United States Sentencing Commission, the defendant shall:

- 1) The defendant shall report to the probation office in the federal judicial district where he or she is authorized to reside within 72 hours of release from imprisonment, unless the probation officer instructs the defendant to report to a different probation office or within a different time frame;
- 2) After initially reporting to the probation office, the defendant will receive instructions from the court or the probation officer about how and when to report to the probation officer, and the defendant shall report to the probation officer as instructed;
- 3) The defendant shall not knowingly leave the federal judicial district where he or she is authorized to reside without first getting permission from the court or the probation officer;
- 4) The defendant shall answer truthfully the questions asked by the probation officer;
- 5) The defendant shall live at a place approved by the probation officer. If the defendant plans to change where he or she lives or anything about his or her living arrangements (such as the people the defendant lives with), the defendant shall 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, the defendant shall notify the probation officer within 72 hours of becoming aware of a change or expected change;
- 6) The defendant shall allow the probation officer to visit the defendant at any time at his or her home or elsewhere, and the defendant shall permit the probation officer to take any items prohibited by the conditions of the defendant's supervision that he or she observed in plain view;

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Judgment in a Criminal Case  
Defendant: DONTRELL LAVELL THOMAS  
Case Number: 4:22-CR-00235-P(1)

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- 7) The defendant shall work full time (at least 30 hours per week) at a lawful type of employment, unless the probation excuses the defendant from doing so. If the defendant does not have full-time employment, he or she shall try to find full-time employment, unless the probation officer excuses the defendant from doing so. If the defendant plans to change where the defendant works or anything about his or her employment (such as the position or the job responsibilities), the defendant shall 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, the defendant shall notify the probation officer within 72 hours of becoming aware of a change or expected change;
- 8) The defendant shall not communicate or interact with someone the defendant knows is engaged in criminal activity. If the defendant knows someone has been convicted of a felony, the defendant shall not knowingly communicate or interact with that person without first getting the permission of the probation officer;
- 9) If the defendant is arrested or questioned by a law enforcement officer, the defendant shall notify the probation officer within 72 hours;
- 10) The defendant shall 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) The defendant shall not act or make an 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 the defendant poses a risk to another person (including an organization), the probation officer may require the defendant to notify the person about the risk and the defendant shall comply with that instruction. The probation officer may contact the person and confirm that the defendant has notified the person about the risk; and,
- 13) The defendant shall follow the instructions of the probation officer related to the conditions of supervision.

In addition the defendant shall:

not commit another federal, state, or local crime;

not possess illegal controlled substances;

not possess a firearm, destructive device, or other dangerous weapon;

cooperate in the collection of DNA as directed by the U.S. probation officer;

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Defendant: DONTRELL LAVELL THOMAS  
Case Number: 4:22-CR-00235-P(1)

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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;

pay the assessment imposed in accordance with 18 U.S.C. § 3013;

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

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

#### **FINE/RESTITUTION**

The Court does not order a fine or costs of incarceration because the defendant does not have the financial resources or future earning capacity to pay a fine or costs of incarceration.

Restitution is not ordered because there is no victim other than society at large.

#### **FORFEITURE**

Pursuant to 18 U.S.C. § 924(d) and 28 U.S.C. § 2461(c), it is hereby ordered that defendant's interest in the following property is condemned and forfeited to the United States: a Taurus, Model G3C, 9-millimeter caliber pistol, bearing Serial No. ACB513896; a Lorcin, Model L25,.25 caliber pistol, bearing Serial No. 109974; 2 rounds of 9-millimeter ammunition; a Ruger Model Security 9, 9-millimeter caliber pistol, bearing Serial No. 383-03963; and 11 rounds of 9-millimeter ammunition.

Judgment in a Criminal Case  
Defendant: DONTRELL LAVELL THOMAS  
Case Number: 4:22-CR-00235-P(1)

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**RETURN**

I have executed this judgment as follows:

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Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_  
at \_\_\_\_\_, with a certified copy of this judgment.

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United States Marshal

BY \_\_\_\_\_  
Deputy Marshal