

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

In the Supreme Court of the United States

---

TRAVIS ADAM BROWN,  
Petitioner,

v.

UNITED STATES OF AMERICA,  
Respondent.

---

APPENDIX TO  
PETITION FOR A WRIT OF CERTIORARI

---

TABLE OF CONTENTS

Judgment and Opinion of Fifth Circuit ..... 1a

Judgment and Sentence of the United States District Court  
for the Western District of Texas .....3a

# United States Court of Appeals for the Fifth Circuit

---

No. 23-50222  
Summary Calendar

---

United States Court of Appeals  
Fifth Circuit

**FILED**

May 6, 2024

Lyle W. Cayce  
Clerk

UNITED STATES OF AMERICA,

*Plaintiff—Appellee,*

*versus*

TRAVIS ADAM BROWN,

*Defendant—Appellant.*

---

Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 7:22-CR-152-1

---

Before JONES, SOUTHWICK, and HO, *Circuit Judges.*

PER CURIAM:\*

Travis Adam Brown pleaded guilty to being a felon in possession of ammunition, a violation of 18 U.S.C. § 922(g)(1). On appeal, he challenges the procedural and substantive reasonableness of his above-guidelines sentence to a 180 month term of imprisonment.

---

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

No. 23-50222

We review the district court's application of the Sentencing Guidelines de novo and its factual findings for clear error. *See United States v. Bass*, 996 F.3d 729, 742 (5th Cir. 2021). "A factual finding is not clearly erroneous if it is plausible, considering the record as a whole." *Id.* (internal quotation marks and citation omitted).

First, the district court did not clearly err in denying an offense-level reduction pursuant to U.S.S.G. § 2K2.1(b)(2) based on Brown's claim that he possessed ammunition because he was collecting shell casings for recycling. *See United States v. Shell*, 972 F.2d 548, 550 (5th Cir. 1992). Second, in light of the evidence and testimony regarding the domestic violence call that preceded Brown's arrest, we are not persuaded that the district court clearly erred in applying a § 2K2.1(b)(6)(B) enhancement based on the finding that he possessed a firearm in connection with committing felony aggravated assault. *See Bass*, 996 F.3d at 742. Third, the district court's denial of a reduction for acceptance of responsibility was not without foundation in light of the record evidence, including the recording of the prison incident. *See United States v. Juarez-Duarte*, 513 F.3d 204, 211 (5th Cir. 2008).

We review the substantive reasonableness of a sentence under a highly deferential abuse of discretion standard. *United States v. Fraga*, 704 F.3d 432, 439 (5th Cir. 2013). In light of that deferential standard of review, we are not persuaded that the district court made false factual findings in support of the sentence or otherwise erred in its assessment of the relevant sentencing factors. *See id.* at 439-40.

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

May 06, 2024

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW

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

No. 23-50222 USA v. Brown  
USDC No. 7:22-CR-152-1

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



By: \_\_\_\_\_  
Casey A. Sullivan, Deputy Clerk

Enclosure(s)

Mr. Joseph H. Gay Jr.  
Mr. Matthew James Kozik  
Ms. Angela Sandoval Raba

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
MIDLAND-ODESSA DIVISION

UNITED STATES OF AMERICA

v.

Case Number: 7:22-CR-00152(1) DC  
USM Number: 10062-180

**TRAVIS ADAM BROWN**

Alias(es):

**AKA** Travis Brown,; **AKA** Abram Brown,; **AKA** Travis  
Abram Brown,;

Defendant.

**JUDGMENT IN A CRIMINAL CASE**  
**(For Offenses Committed On or After November 1, 1987)**

The defendant, Travis Adam Brown, was represented by Matthew James Kozik.

The defendant pled guilty to Count(s) 1, of the Indictment on September 13, 2022. Accordingly, the defendant is adjudged guilty of such Count(s), involving the following offense(s):

<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count(s)</u>
18 U.S.C. § 922(g)(1)	Felon in Possession of Ammunition	June 26, 2022	1

As pronounced on March 30, 2023, the defendant is sentenced as provided in pages 2 through 6 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

It is further ordered that the defendant shall 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 shall notify the Court and United States Attorney of any material change in the defendant's economic circumstances.

Signed this 10th day of April, 2023.



---

David Counts  
United States District Judge

DEFENDANT: TRAVIS ADAM BROWN  
CASE NUMBER: 7:22-CR-00152(1) DC

**IMPRISONMENT**

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a term of **One Hundred Eighty (180) months. This term to run consecutive to any sentence imposed in Case No. C-22-0702-CR pending in 244<sup>th</sup> Judicial District Court, Odessa, TX, Case No. LOC 21-224 pending in Lonoke County District Court, Lonoke, AK, Case No. A-22-1010-CR pending in 70<sup>th</sup> Judicial District Court, Odessa, TX, and concurrent to any sentence imposed with pending charge of Aggravated Assault with Deadly Weapon pending Odessa Police Department, Odessa, TX, with credit for time served while in custody for this federal offense pursuant to 18 U.S.C. § 3585(b).**

The defendant shall remain in custody pending service of sentence.

**RETURN**

I have executed this judgment as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_  
at \_\_\_\_\_ with a certified copy of the Judgment.

\_\_\_\_\_  
United States Marshal



DEFENDANT: TRAVIS ADAM BROWN  
CASE NUMBER: 7:22-CR-00152(1) DC

## **SUPERVISED RELEASE**

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

While on supervised release, the defendant shall comply with the mandatory, standard and if applicable, the special conditions that have been adopted by this Court and shall comply with the following additional conditions:

The defendant shall submit his or her person, property, house, residence, vehicle, papers, computers (as defined in 18 U.S.C. § 1030(e)(1)), other electronic communications or data storage devices or media, or office, to a search conducted by a United States probation officer. Failure to submit to a search may be grounds for revocation of release. The defendant shall warn any other occupants that the premises may be subject to searches pursuant to this condition. The probation officer may conduct a search under this condition only when reasonable suspicion exists that the defendant has violated a condition of supervision and that the areas to be searched contain evidence of this violation. Any search shall be conducted at a reasonable time and in a reasonable manner.

DEFENDANT: TRAVIS ADAM BROWN  
CASE NUMBER: 7:22-CR-00152(1) DC

**CONDITIONS OF SUPERVISED RELEASE**  
**(As Amended November 28, 2016)**

It is ORDERED that the Conditions of Probation and Supervised Release applicable to each defendant committed to probation or supervised release in any division of the Western District of Texas, are adopted as follows:

Mandatory Conditions:

- [1] The defendant shall not commit another federal, state, or local crime during the term of supervision.
- [2] The defendant shall not unlawfully possess a controlled substance.
- [3] The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release on probation or supervised release and at least two periodic drug tests thereafter (as determined by the court), but the condition stated in this paragraph may be ameliorated or suspended by the court if the defendant's presentence report or other reliable sentencing information indicates low risk of future substance abuse by the defendant.
- [4] The defendant shall cooperate in the collection of DNA as instructed by the probation officer, if the collection of such a sample is authorized pursuant to section 3 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. § 14135a).
- [5] If applicable, the defendant shall comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, et. seq.) as instructed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which the defendant resides, works, is a student, or was convicted of a qualifying offense.
- [6] If convicted of a domestic violence crime as defined in 18 U.S.C. § 3561(b), the defendant shall participate in an approved program for domestic violence.
- [7] If the judgment imposes a fine or restitution, it is a condition of supervision that the defendant pay in accordance with the Schedule of Payments sheet of the judgment.
- [8] The defendant shall pay the assessment imposed in accordance with 18 U.S.C. § 3013.
- [9] The defendant shall notify the court of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay restitution, fines or special assessments.

Standard Conditions:

- [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.

DEFENDANT: TRAVIS ADAM BROWN  
CASE NUMBER: 7:22-CR-00152(1) DC

- [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 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 are observed in plain view.
- [7] The defendant shall work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer 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 work (such as the position or job responsibilities), 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.
- [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 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 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.
- [13] The defendant shall follow the instructions of the probation officer related to the conditions of supervision.
- [14] If the judgment imposes other criminal monetary penalties, it is a condition of supervision that the defendant pay such penalties in accordance with the Schedule of Payments sheet of the judgment.
- [15] If the judgment imposes a fine, special assessment, restitution, or other criminal monetary penalties, it is a condition of supervision that the defendant shall provide the probation officer access to any requested financial information.
- [16] If the judgment imposes a fine, special assessment, restitution, or other criminal monetary penalties, it is a condition of supervision that the defendant shall not incur any new credit charges or open additional lines of credit without the approval of the probation officer, unless the defendant is in compliance with the payment schedule.
- [17] If the defendant is excluded, deported, or removed upon release on probation or supervised release, the term of supervision shall be a non-reporting term of probation or supervised release. The defendant shall not illegally re-enter the United States. If the defendant is released from confinement or not deported, or lawfully re-enters the United States during the term of probation or supervised release, the defendant shall immediately report in person to the nearest U.S. Probation Office.

DEFENDANT: TRAVIS ADAM BROWN  
CASE NUMBER: 7:22-CR-00152(1) DC

## CRIMINAL MONETARY PENALTIES/ SCHEDULE

The defendant shall pay the following total criminal monetary penalties in accordance with the schedule of payments set forth. Unless the Court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during the period of imprisonment. Criminal Monetary Penalties, except those payments made through Federal Bureau of Prisons' Inmate Financial Responsibility Program shall be paid through the Clerk, United States District Court, 200 E. Wall St. Room 222, Midland, TX 79701 or online by Debit (credit cards not accepted) or ACH payment (direct from Checking or Savings Account) through pay.gov (link accessible on the landing page of the U.S. District Court's Website). **Your mail-in or online payment must include your case number in the exact format of DTXW722CR000152-001 to ensure proper application to your criminal monetary penalty.**

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

	<u>Assessment</u>	<u>Restitution</u>	<u>Fine</u>	<u>AVAA Assessment*</u>	<u>JVTA Assessment**</u>
TOTAL:	\$100.00	\$0.00	\$10,000.00	\$0.00	\$0.00

### Special Assessment

It is ordered that the defendant shall pay to the United States a special assessment of **\$100.00**.

### Fine

The defendant shall pay a fine of **\$10,000.00**. Payment of this sum shall begin immediately.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column above. However, pursuant to 18 U.S.C. § 3664(i), all non-federal victims must be paid before the United States is paid.

If the fine is not paid, the court may sentence the defendant to any sentence which might have been originally imposed. See 18 U.S.C. §3614.

The defendant shall pay interest on any fine or restitution of more than \$2,500.00, unless the fine or restitution is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. §3612(f). All payment options may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. §3612(g).

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.

\* 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.